



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

KATHLEEN K. WEST, Administrative Code Editor
STEPHANIE A. HOFF, Deputy Editor

Telephone: (515)281-3355
(515)281-8157
Fax: (515)281-5534

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Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

SUBMISSION DEADLINE

ISSUE DATE

11

Friday, November 3, 2006

November 22, 2006

12

Wednesday, November 15, 2006

December 6, 2006

13

Friday, December 1, 2006

December 20, 2006

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

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Attn: Nicole Navara
Legislative Services Agency
Miller Building
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Telephone: (515)281-6766

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The Administrative Rules Review Committee will hold a special meeting on Monday, November 20, 2006, at 1 p.m. and Tuesday, November 21, 2006, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Information technology enterprise operational standards, 25.9, Filed **ARC 5485B** 10/25/06
 Security operational standards—assessment and enforcement, 25.11, Filed **ARC 5484B** 10/25/06

AGRICULTURAL DEVELOPMENT AUTHORITY[25]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Beginning farmer tax credit program, ch 6, Notice **ARC 5489B**, also
Filed Emergency **ARC 5483B** 10/25/06

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 Registration of quarter horse foals, 62.37(1), Filed **ARC 5453B** 10/11/06

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BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]“umbrella”

Electronic transfer of funds—debit cards at merchant locations, 10.2, 10.4(3),
 10.4(3)“b”(4) and (5), Filed **ARC 5487B** 10/25/06

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

Federal family education loan programs, ch 10, Filed **ARC 5448B** 10/11/06
 Student loan debt collection, ch 37, Filed **ARC 5462B** 10/25/06

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”

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71.3(1)"a," "b" and "h," Filed Without Notice **ARC 5457B** 10/11/06**PUBLIC SAFETY DEPARTMENT[661]**Sprinklers in elevators, 5.52, Filed **ARC 5427B** 10/11/06Flammable and combustible liquids—stationary storage, deadline for usage of
dispensing equipment, 51.200, 51.202(1), Notice **ARC 5501B** 10/25/06Contractor certification for installation of preengineered dry chemical and wet agent extinguishing systems,
275.3(4)"c," 275.5(1), 275.6, Notice **ARC 5425B**, also Filed Emergency **ARC 5426B** 10/11/06Energy conservation for residential and nonresidential construction, 303.2, 303.3, Filed **ARC 5500B** 10/25/06Peace officers' retirement, accident, and disability system—line-of-duty death benefit,
medical board, administrative procedures, service purchases, 400.2, 400.10, ch 401,
ch 402 div III, 402.300 to 402.306, Filed **ARC 5446B** 10/11/06**RECORDS COMMISSION[671]**Management of government records—definitions, 1.2, Notice **ARC 5447B** 10/11/06**REVENUE DEPARTMENT[701]**Ethanol blended gasoline, biodiesel blended fuel and E-85 gasoline promotion tax credits,
42.16, 42.16(1), 42.16(3), 42.31, 42.32, 52.19, 52.19(1), 52.19(3),
52.30, 52.31, Filed **ARC 5494B** 10/25/06Soy-based transformer fluid tax credit, 42.33, 52.32, Filed **ARC 5493B** 10/25/06Property tax, 70.12, 71.20(4)"c"(4), 71.21(2)"h," 71.21(4), 71.22(3), 80.1(2)"k," 80.2(2)"c," 80.3(7),
80.4(11), 80.19, 80.21, 80.23 to 80.25, Filed **ARC 5491B** 10/25/06

SAVINGS AND LOAN DIVISION[197]

COMMERCE DEPARTMENT[181]"umbrella"

Electronic transfer of funds—debit cards at merchant locations, 14.2, 14.4(3),

14.4(3)"b"(4) and (5), 14.5(1), 14.6, Filed **ARC 5486B** 10/25/06**SECRETARY OF STATE[721]**

Election instructions, voting systems, vote counting—guidance and clarification, 21.2(1)"k,"

21.2(3)"b" and "c," 21.6, 21.301, 22.39 to 22.43, 22.52, 22.201(2), 22.240(3),

22.261(20)"c" and "j," 22.350, 22.463(1)"a," 22.464, 22.464(4), 26.2(4), 26.105(2),

26.105(3), Filed Emergency After Notice **ARC 5482B** 10/25/06**TRANSPORTATION DEPARTMENT[761]**Consent for the sale of goods and services, ch 26, Filed **ARC 5428B** 10/11/06**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Eligibility, certification, and reporting requirements for eligible telecommunications

carriers, 1.9(5)"c," 22.2(7), 39.2(3)"c" to "l," 39.2(7), 39.5, 39.6, Filed **ARC 5502B** 10/25/06

Prohibition of unauthorized changes in telecommunications service,

22.23(2)"a"(5), Notice **ARC 5423B** 10/11/06**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**Iowa Veterans home, amendments to ch 10, Notice **ARC 5481B** 10/25/06**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Workers' compensation settlements and commutations—forms and procedures, 3.1(5), 3.1(15), 3.1(16),

3.1(20) to 3.1(25), 4.9(1), 4.30, 6.1, 6.2(9), 6.5 to 6.8, Filed **ARC 5496B** 10/25/06**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
21884 483rd Lane
Chariton, Iowa 50049

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-5995

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
P.O. Box 140
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

Sonya Streit
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
EDUCATION DEPARTMENT[281]		
Open enrollment, amendments to ch 17 IAB 10/11/06 ARC 5415B	Conference Room 2 Southwest Grimes State Office Bldg. Des Moines, Iowa	November 1, 2006 2:30 to 4 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Recycling property eligible for property tax exemption, 11.6 IAB 10/11/06 ARC 5450B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 8, 2006 1 p.m.
Water supply program design and operation—fees, 43.3(3)“c” IAB 10/11/06 ARC 5449B	IDNR Water Supply Office 401 SW 7th St., Suite I Des Moines, Iowa	November 1, 2006 10 a.m.
HUMAN SERVICES DEPARTMENT[441]		
State payment program, amendments to chs 88, 153 IAB 10/11/06 ARC 5451B (See also ARC 5282B , IAB 8/2/06)	Conf. Rm. 104, City View Plaza 1200 University Ave. Des Moines, Iowa	November 1, 2006 8:30 a.m.
	ICN Room, Fourth Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	November 1, 2006 9 to 10 a.m.
	ICN Rm., Pottawattamie Co. DHS 417 E. Kaneshville Blvd. Council Bluffs, Iowa	November 1, 2006 10 a.m.
	Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	November 1, 2006 10 a.m. to 12 noon
	Second Floor Conference Room Human Services Center 126 S. Kellogg Ave. Ames, Iowa	November 1, 2006 11 a.m. to 12 noon
	Conf. Rm. 3, Wapello Co. DHS 120 E. Main St. Ottumwa, Iowa	November 1, 2006 1 to 2 p.m.
	3rd Floor Conf. Rm., Nesler Centre 799 Main St. Dubuque, Iowa	November 2, 2006 9:30 a.m.
	Main Conf. Rm., Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	November 2, 2006 1 to 2 p.m.
	Board of Supervisors Rm., 1st Floor Scott Co. Administrative Center 428 Western Ave. Davenport, Iowa	November 3, 2006 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

State payment program appropriation, amendments to ch 153 IAB 10/11/06 ARC 5418B (See also ARC 5419B)	Conf. Rm. 104, City View Plaza 1200 University Ave. Des Moines, Iowa	November 1, 2006 8:30 a.m.
	ICN Room, Fourth Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	November 1, 2006 9 to 10 a.m.
	ICN Rm., Pottawattamie Co. DHS 417 E. Kanesville Blvd. Council Bluffs, Iowa	November 1, 2006 10 a.m.
	Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	November 1, 2006 10 a.m. to 12 noon
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	3rd Floor Conf. Rm., Nesler Centre 799 Main St. Dubuque, Iowa	November 2, 2006 9:30 a.m.
	Main Conf. Rm., Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	November 2, 2006 1 to 2 p.m.
	Board of Supervisors Rm., 1st Floor Scott Co. Administrative Center 428 Western Ave. Davenport, Iowa	November 3, 2006 10 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Hospital licensure, amendments to ch 51 IAB 10/11/06 ARC 5431B	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	November 1, 2006 10 a.m.
Nursing facilities, amendments to chs 58, 61 IAB 10/11/06 ARC 5429B	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	November 1, 2006 2 p.m.

LABOR SERVICES DIVISION[875]

Construction contractor registration, 150.3, 150.7 IAB 9/27/06 ARC 5391B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	November 1, 2006 9 a.m. (If requested)
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PUBLIC SAFETY DEPARTMENT[661]

Flammable and combustible liquids, 51.200, 51.202(1) IAB 10/25/06 ARC 5501B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	November 16, 2006 1:30 p.m.
Certification of automatic fire extinguishing system contractors, 275.3(4), 275.5(1), 275.6 IAB 10/11/06 ARC 5425B (See also ARC 5426B)	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	November 2, 2006 10 a.m.
State historic building code, 350.1 IAB 9/27/06 ARC 5402B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	October 26, 2006 10:30 a.m.
Manufactured or mobile home retailers, manufacturers, and distributors, ch 372 IAB 9/27/06 ARC 5403B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	October 26, 2006 10 a.m.

RECORDS COMMISSION[671]

Government records—organization and responsibilities, 1.2 IAB 10/11/06 ARC 5447B	Tone Board Room, 3rd Floor West Historical Building 600 East Locust St. Des Moines, Iowa	October 31, 2006 10 a.m.
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UTILITIES DIVISION[199]

Wind and renewable energy tax credits, 15.18 to 15.21 IAB 9/27/06 ARC 5400B	Hearing Room 350 Maple St. Des Moines, Iowa	November 7, 2006 10 a.m.
Gas and electric line extensions, 19.3(10), 20.3(13) IAB 9/13/06 ARC 5382B	Hearing Room 350 Maple St. Des Moines, Iowa	November 14, 2006 10 a.m.
Rules prohibiting unauthorized changes to telecommunications service, 22.23(2)“a”(5) IAB 10/11/06 ARC 5423B	Hearing Room 350 Maple St. Des Moines, Iowa	November 21, 2006 10 a.m.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa veterans home, amendments to ch 10 IAB 10/25/06 ARC 5481B	Ford Memorial Conference Rm. Iowa Veterans Home 1301 Summit Marshalltown, Iowa	November 16, 2006 10 a.m. (If requested)
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 5489B

AGRICULTURAL DEVELOPMENT
AUTHORITY[25]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 175.6, the Agricultural Development Authority hereby gives Notice of Intended Action to adopt Chapter 6, “Beginning Farmer Tax Credit Program,” Iowa Administrative Code.

These rules establish the application process for the Beginning Farmer Tax Credit Program and provide qualifications and rules for the program.

2006 Iowa Acts, Senate File 2268, provides a tax credit to agricultural asset owners that rent their assets to qualified beginning farmers who are residents of Iowa. The tax credit is 5 percent of the rental income received on cash rental agreements and 15 percent of the rental income received on share agreements.

To qualify as a beginning farmer, a person must be eligible to receive financial assistance under Iowa Code section 175.12. Under this section, the beginning farmer applicant must have a net worth not in excess of \$300,000. In addition, the applicant must be a resident of the state of Iowa; have sufficient education, training or experience in farming; and have access to adequate working capital, equipment and other items necessary to operate the farm. The beginning farmers shall materially and substantially participate in the operation of the farm.

Interested persons may make written comments addressed to Jeff Ward, Executive Director, Agricultural Development Authority, 505 Fifth Avenue, Suite 327, Des Moines, Iowa 50309-2322; or E-mailed to jeff.ward@iowa.gov on or before November 14, 2006.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 5483B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code chapter 175 as amended by 2006 Iowa Acts, Senate File 2268.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 5473B

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.36 and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment requires an applicant for licensure to practice pharmacy to submit evidence of satisfactory completion of required internship experience before the Board will certify the applicant as eligible to take any of the licensure examination components.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 147.29, 147.36, and 155A.8.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 657—2.4(155A) as follows:

657—2.4(155A) Internship requirements. Each applicant shall furnish to the board evidence certifying completion of satisfactory internship experience. *The board will not certify an applicant eligible to take any of the examination components prior to receipt of evidence of satisfactory completion of internship experience.* Internship experience shall comply with the requirements in 657—Chapter 4. Internship experience completed in compliance with the requirements in 657—Chapter 4 shall be valid for application for licensure in Iowa by examination or score transfer for a period of three years following graduation from an approved college of pharmacy or as otherwise approved by the board on a case-by-case basis.

ARC 5465B**PHARMACY EXAMINERS
BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4880B**, proposing to amend Chapter 3, "Pharmacy Technicians," and Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The Notice proposed to amend Chapter 7 to authorize the pharmacist in charge to designate pharmacy technicians who may be present in the pharmacy to perform authorized activities in the absence of a pharmacist. The amendments specifically identified activities that could not be performed when the pharmacy is closed and required the technician to maintain a log identifying each period of time that the technician worked in the pharmacy when the pharmacist was not on site. The amendments proposed establishing requirements for pharmacist review of medication orders when the hospital and pharmacy utilize an integrated electronic record system or a paperless electronic medical record system. The proposed amendment in Chapter 3 referenced the procedures in Chapter 7 relating to pharmacy technicians.

The Board is terminating the rule making commenced in **ARC 4880B** due to the lapse of more than 180 days since publication of the Notice of Intended Action. The Board will submit a new Notice of Intended Action to address the issues proposed in the original amendments.

ARC 5466B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 3, "Pharmacy Technicians," and Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments authorize the pharmacist in charge to designate pharmacy technicians who may be present in the pharmacy to perform authorized activities in the absence of a pharmacist. The amendments specifically identify activities that may not be performed when the pharmacy is closed and require the technician to maintain a log identifying each period of time that the technician worked in the pharmacy when the pharmacist was not on site. Rule 657—3.21(155A) is amended to reference the procedures relating to pharmacy technicians authorized in 657—Chapter 7.

Rule 657—7.3(155A) is amended by deleting the listed examples or suggestions of pharmacy references within each category of required references for a hospital pharmacy, and subrule 7.8(3) is amended to establish requirements for pharmacist review of medication orders when the hospital and pharmacy utilize an integrated electronic record system or a paperless electronic medical record system.

The proposed amendment to subrule 7.12(2) provides for the administration of a controlled substance to a patient in the hospital emergency department following examination by the nurse and consultation with the on-call prescriber pending arrival of the on-call prescriber and provided the prescriber examines the patient in the emergency room to determine further treatment needs.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.301, 155A.6, 155A.13, 155A.27, 155A.31, and 155A.33.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 657—3.21(155A) as follows:

657—3.21(155A) Delegation of technical functions. A pharmacist may delegate technical dispensing functions to a pharmacy technician, but only if the pharmacist is on site when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate. The pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

ITEM 2. Amend rule 657—7.2(155A) as follows:

657—7.2(155A) Pharmacist in charge. One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, the items identified in this rule. A part-time pharmacist in charge has the same obligations and responsibilities as a full-time pharmacist in charge. Where 24-hour operation of the pharmacy is not feasible, a pharmacist shall be available on an "on call" basis.

1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services;

2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy and sufficient to ensure adequate levels of quality patient care services. Drug dispensing by nonpharmacists shall be minimized and eliminated wherever possible;

3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy;

PHARMACY EXAMINERS BOARD[657](cont'd)

4. Ensuring that a pharmacist performs therapeutic drug monitoring and drug use evaluation;
5. Ensuring that a pharmacist provides drug information to other health professionals and to patients;
6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel;
7. Delivering drugs to the patient or the patient's agent;
8. Ensuring that patient medication records are maintained as specified in rule 7.10(124,155A);
9. Training pharmacy technicians and supportive personnel;
10. *Ensuring adequate and appropriate pharmacist oversight and supervision of pharmacy technicians and supportive personnel;*
11. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy;
12. ~~Disposing of~~ *Distributing* and ~~distributing~~ *disposing* of drugs from the pharmacy;
13. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations;
14. Establishing and maintaining effective controls against the theft or diversion of prescription drugs, controlled substances, and records for such drugs;
15. Preparing a written operations manual governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; and ensuring that all pharmacy personnel are familiar with the contents of the manual;
16. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.

ITEM 3. Amend rule 657—7.3(155A) as follows:

657—7.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. The Iowa Pharmacy Law and Information Manual.
2. A patient information reference such as:
 - ~~USP Dispensing Information, Volume II (Advice for the Patient);~~
 - ~~Professional's Guide to Patient Drug Facts by Facts and Comparisons; or~~
 - ~~Leaflets which provide that includes or provides patient information in compliance with rule 657—6.14(155A).~~
3. A reference on drug interactions such as:
 - ~~First DataBank's Evaluations of Drug Interactions;~~
 - ~~Hansten & Horn's Drug Interactions, Analysis & Management; or~~
 - ~~Drug Interaction Facts by Facts and Comparisons.~~
4. A general information reference such as:
 - ~~Facts and Comparisons;~~
 - ~~USP Dispensing Information, Volume I (Drug Information for the Health Care Professional); or~~
 - ~~AHFS Drug Information.~~
5. A drug equivalency reference such as:
 - ~~Approved Drug Products With Therapeutic Equivalence Evaluations (Orange Book);~~
 - ~~ABC—Approved Bioequivalency Codes; or~~

- ~~USP Dispensing Information, Volume III (Approved Drug Products and Legal Requirements).~~

6. An injectable-drug compatibility reference such as:
 - ~~Betty Gahart's Intravenous Medications; or~~
 - ~~Trissel's Handbook on Injectable Drugs.~~
7. A drug identification reference such as:
 - ~~Mosby's GenRx;~~
 - ~~Identidex by Micromedix;~~
 - ~~Ident-a-Drug; or~~
 - ~~Other drug identification reference to enable identification of drugs brought into the facility by patients.~~
8. The readily accessible telephone number of a poison control center that serves the area.

9. Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served. For example, the treatment of pediatric patients and oncology patients would require additional references unique to these specialties.

ITEM 4. Amend subrule 7.6(2) as follows:

7.6(2) Access when pharmacist absent. *When the pharmacist is absent from the facility, the pharmacy is closed.* Policies and procedures shall be established ~~which that~~ identify who will have access to the pharmacy when the pharmacist is absent from the facility *pharmacy is closed* and the procedures to be followed for obtaining drugs, devices, and chemicals to fill an emergent need during ~~that the pharmacist's absence.~~ *When the pharmacist is absent from the facility, the pharmacy is closed.*

a. *The pharmacist in charge may designate pharmacy technicians who may be present in the pharmacy to perform technical and nontechnical functions designated by the pharmacist in charge. Activities identified in paragraph "d" of this subrule may not be performed when the pharmacy is closed.*

b. *If the pharmacist in charge has authorized the presence in the pharmacy of a pharmacy technician to perform designated functions when the pharmacy is closed, the technician may assist another authorized, licensed health care professional to locate a drug or device pursuant to an emergent need. The pharmacy technician may not dispense or deliver the drug, chemical, or device to the licensed health care professional. The licensed health care professional shall comply with established policies and procedures for obtaining drugs, devices, and chemicals when the pharmacy is closed. The licensed health care professional shall not ask or expect the pharmacy technician to verify that the appropriate drug, chemical, or device has been obtained from the pharmacy.*

c. *A pharmacy technician who is present in the pharmacy when the pharmacy is closed shall prepare and maintain in the pharmacy a log identifying each period of time that the technician worked in the pharmacy while the pharmacy was closed and identifying each activity performed during that time period. Each record logged shall be dated and each daily record shall be signed by the pharmacy technician who prepared the record. The log shall be periodically reviewed by the pharmacist in charge.*

d. *Activities which shall not be performed by a pharmacy technician when the pharmacist is absent from the facility include:*

(1) *Dispensing, delivering, or distributing any prescription drugs or devices to patients or others, including health care professionals, prior to pharmacist verification. Verification by a nurse or other licensed health care professional shall not supplant verification by a pharmacist.*

PHARMACY EXAMINERS BOARD[657](cont'd)

(2) *Providing the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order.*

(3) *Conducting prospective drug use review or evaluating a patient's medication record for purposes identified in rule 657—8.21(155A).*

(4) *Providing patient counseling, consultation, or drug information.*

(5) *Making decisions that require a pharmacist's professional judgment such as interpreting or applying information.*

(6) *Preparing compounded drug products for immediate administration by other hospital staff or health care professionals without verification by a pharmacist.*

ITEM 5. Amend subrule **7.8(1)**, paragraph **"b,"** as follows:

b. Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products, ~~including chemotherapy injections, continuous and intermittent intravenous preparations, and irrigation solutions,~~ in conformance with 657—8.30(126,155A).

ITEM 6. Amend subrule 7.8(3) as follows:

7.8(3) Medication orders. There shall be no manual or electronic transcribing of medication orders by nursing or clerical staffs except for their own records. *A pharmacist shall receive a copy of the original medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who enters the order into an electronic medical record system. If an individual other than the prescriber enters a medication order into an electronic medical record system, the pharmacist shall review and verify the entry against the original order before the drug is dispensed except for emergency use, when the pharmacy is closed, or when the original order is a verbal order from the prescriber to the registered nurse or pharmacist, or as provided in rule 7.7(155A). When the pharmacy is closed, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and a pharmacist shall verify the entry against the original medication order as soon as practicable. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee. All systems shall provide for pharmacist review and verification by the pharmacist of the prescriber's original order before the drug is dispensed except for emergency use or except when the pharmacy is closed, or as provided in rule 7.7(155A).*

ITEM 7. Amend subrule 7.12(2) as follows:

7.12(2) Accountability. Drugs may be dispensed only in accordance with the system of control and accountability for drugs administered or dispensed from the emergency room.

a. The system shall be developed and supervised by the pharmacist in charge and the facility's emergency department committee, or a similar group or person responsible for policy in that department.

b. The system shall identify drugs of the nature and type to meet the immediate needs of emergency room patients.

c. Controlled substances maintained in the emergency room are kept for use by, or at the direction of, prescribers in the emergency room. In order to receive a controlled sub-

stance, a patient must be examined in the emergency room by a prescriber who shall determine the need for the drug. It is not permissible under state and federal requirements for a prescriber to see a patient outside the emergency room setting, or talk to the patient on the telephone, and then proceed to call the emergency room and order the administration of a stocked controlled substance upon the patient's arrival at the emergency room.

d. *In an emergency situation and regardless of the provisions of paragraph "c," the emergency room nurse may examine the patient in the emergency room and contact the on-call prescriber. The on-call prescriber may then authorize the nurse to administer a controlled substance to the patient pending the arrival of the prescriber. As soon as possible, the prescriber shall examine the patient in the emergency room and determine the patient's further treatment needs.*

d e. The pharmacist in charge is responsible for maintaining accurate records of dispensing of drugs from the emergency room.

ARC 5470B

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment deletes the listed examples or suggestions of pharmacy references within each category of required references for a general pharmacy.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code section 155A.31.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 657—6.3(155A) as follows:

657—6.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as a minimum, one current

PHARMACY EXAMINERS BOARD[657](cont'd)

reference from each of the following categories, including access to current periodic updates.

1. The Iowa Pharmacy Law and Information Manual.
2. A patient information reference such as:
 - ~~USP Dispensing Information, Volume II (Advice for the Patient);~~
 - ~~Professional's Guide to Patient Drug Facts by Facts and Comparisons; or~~
 - ~~Leaflets which provide that includes or provides patient information in compliance with rule 6.14(155A).~~
3. A reference on drug interactions such as:
 - ~~First DataBank's Evaluations of Drug Interactions;~~
 - ~~Hansten & Horn's Drug Interactions Analysis & Management; or~~
 - ~~Drug Interaction Facts by Facts and Comparisons.~~
4. A general information reference such as:
 - ~~Facts and Comparisons;~~
 - ~~USP Dispensing Information, Volume I (Drug Information for the Health Care Professional); or~~
 - ~~AHFS Drug Information.~~
5. A drug equivalency reference such as:
 - ~~Approved Drug Products With Therapeutic Equivalence Evaluations (Orange Book);~~
 - ~~ABC—Approved Bioequivalency Codes; or~~
 - ~~USP Dispensing Information, Volume III (Approved Drug Products and Legal Requirements).~~
6. A reference on natural or herbal medicines such as:
 - ~~Natural Medicines—Comprehensive Database; or~~
 - ~~The Review of Natural Products.~~
7. The readily accessible telephone number of a poison control center that serves the area.
8. Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served.

ARC 5467B

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment requires that the walls enclosing a pharmacy department consist of a substantial physical barrier capable of being securely locked to prevent entry when the department is closed.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer,

Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 155A.13 and 155A.13A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 657—8.5(155A) by adopting **new** subrule 8.5(3) as follows and renumbering current subrules **8.5(3)** through **8.5(6)** as subrules **8.5(4)** through **8.5(7)**:

8.5(3) Secure barrier. The pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the barrier shall be submitted to the board for approval prior to the start of construction. The board may also require on-site inspection of the facility or pharmacy department prior to the pharmacy's opening or relocation. The pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A).

ARC 5468B

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment authorizes a pharmacy technician 18 years of age or older to witness the wastage of the unused portion of a controlled substance resulting from administration to a patient or from drug compounding operations.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street,

PHARMACY EXAMINERS BOARD[657](cont'd)

Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 124.301 and 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 10.18(2), introductory paragraph, as follows:

10.18(2) Waste. Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient from a registrant's stock or emergency supply or resulting from drug compounding operations may be destroyed or otherwise disposed of by the registrant or a pharmacist in witness of one other licensed health care provider or a registered pharmacy technician 18 years of age or older pursuant to this subrule. A written record of the waste shall be made and maintained by the registrant for a minimum of two years following the destruction or other disposal. The record shall include the signatures of the individual destroying or otherwise disposing of the waste controlled substance and of the witnessing licensed health care provider or registered pharmacy technician and shall identify the following:

ARC 5477B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 15, "Correctional Facility Pharmacy Practice," Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment deletes the listed examples or suggestions of pharmacy references within each category of required references for a correctional facility pharmacy.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code section 155A.31.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 657—15.4(155A) as follows:

657—15.4(155A) Reference library. References may be printed or computer-accessed. Each correctional facility pharmacy shall have on site, as a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. The Iowa Pharmacy Law and Information Manual.
2. A patient information reference such as:
 - ~~USP Dispensing Information, Volume II (Advice for the Patient);~~
 - ~~Professional's Guide to Patient Drug Facts by Facts and Comparisons; or~~
 - ~~Leaflets which provide that includes or provides patient information in compliance with rule 657—6.14(155A).~~
3. A reference on drug interactions such as:
 - ~~First DataBank's Evaluations of Drug Interactions;~~
 - ~~Hansten & Horn's Drug Interactions Analysis & Management; or~~
 - ~~Drug Interaction Facts by Facts and Comparisons.~~
4. A general information reference such as:
 - ~~Facts and Comparisons;~~
 - ~~USP Dispensing Information, Volume I (Drug Information for the Health Care Professional); or~~
 - ~~AHFS Drug Information.~~
5. A drug equivalency reference such as:
 - ~~Approved Drug Products With Therapeutic Equivalence Evaluations (Orange Book);~~
 - ~~ABC—Approved Bioequivalency Codes; or~~
 - ~~USP Dispensing Information, Volume III (Approved Drug Products and Legal Requirements).~~
6. A reference on natural or herbal medicines such as:
 - ~~Natural Medicines—Comprehensive Database; or~~
 - ~~The Review of Natural Products.~~
7. The readily accessible telephone number of a poison control center that serves the area.
8. Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served.

ARC 5464B

PHARMACY EXAMINERS BOARD[657]

Notice of Termination

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 18, 2006, as **ARC 4815B**, proposing to amend Chapter 20, "Pharmacy Compounding Practices," Iowa Administrative Code.

The Notice proposed to clarify that a pharmacy (Pharmacy A) could sell a compounded drug product prepared pursuant to a prescriber's prescription drug order and Board rules to another pharmacy (Pharmacy B) for administration to a patient of Pharmacy B and that Pharmacy B could then bill the

PHARMACY EXAMINERS BOARD[657](cont'd)

patient or the patient's fiscal agent for the compounded drug product.

The Board is terminating the rule making commenced in **ARC 4815B** due to the lapse of more than 180 days since publication of the Notice of Intended Action. The Board will submit a new Notice of Intended Action to address the issues proposed in the original amendment.

ARC 5469B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 20, "Pharmacy Compounding Practices," Iowa Administrative Code.

The amendment was approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment authorizes a pharmacy to sell to a hospital pharmacy a compounded drug product prepared pursuant to a prescriber's authorization for administration to a specific patient and includes specific requirements regarding labeling and record keeping.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code section 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 20.3(4) as follows:

20.3(4) Advertising and resale of compounded drug products. The sale of compounded drug products to other pharmacies or to prescribers, *except as provided in this subrule*, is considered manufacturing. Pharmacists shall not offer compounded drug products to other licensed persons or commercial entities for subsequent resale except in the course of professional practice for a practitioner to administer to an individual patient. *A pharmacy may sell to a hospital pharmacy a compounded drug product prepared pursuant to a prescriber's authorization for administration to a specific patient. The label affixed to the compounded drug product shall identify the pharmacy that compounded the product as the dispensing pharmacy. The original prescription drug order*

shall be maintained by the dispensing pharmacy. These rules shall not prohibit the hospital pharmacy from billing the patient or the patient's fiscal agent for a compounded product prepared for the patient and purchased by the hospital pharmacy pursuant to this subrule. Compounding pharmacies or pharmacists may advertise or otherwise promote the fact that they provide prescription drug compounding services. Compounding pharmacies or pharmacists shall not make a claim, assertion, or inference of professional superiority in the compounding of drug products that cannot be substantiated. All advertisements shall meet the requirements contained in 657—8.12(126,155A 147). Nothing in these rules shall prohibit the centralized filling or processing of a prescription drug order for a compounded drug product by a central fill or processing pharmacy on behalf of an originating pharmacy as provided in 657—Chapter 18.

ARC 5463B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the September 12, 2006, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments clarify certain requirements for prescriptions authorized utilizing an electronic signature, whether or not the prescription itself is transmitted from the prescriber to the pharmacy via electronic means, reiterating the pharmacist's responsibility for ensuring the validity of the prescription. The amendments also identify optional security features that may be used on prescription blanks when those blanks are used to print an electronically signed prescription for delivery to the patient.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 14, 2006. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 124.308, 155A.27, and 155A.35.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

PHARMACY EXAMINERS BOARD[657](cont'd)

ITEM 1. Amend rule 657—21.3(124,155A), introductory paragraph, as follows:

657—21.3(124,155A) Verifying authenticity of an electronically transmitted prescription. The pharmacist shall ensure the validity of the prescription as to its source of origin. Measures to be considered in authenticating prescription drug orders received via electronic transmission *or signed utilizing an electronic signature* include:

ITEM 2. Amend rule 657—21.7(124,155A) as follows:

657—21.7(124,155A) Electronically prepared prescriptions. A prescriber may initiate and authorize a prescription drug order utilizing a computer or other electronic communication or recording device. The prescription drug order shall contain all information required by Iowa Code section 155A.27 ~~except the prescriber's original signature, and may include the prescriber's electronic signature.~~ *The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 21.3(124,155A).*

21.7(1) Controlled substances. A prescription for a controlled substance prepared pursuant to this rule may be transmitted to a pharmacy via facsimile transmission as provided by rule 21.9(124,155A) or rules 21.12(124,155A) through 21.16(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature.

21.7(2) Noncontrolled prescription drugs. A prescription for a noncontrolled prescription drug prepared pursuant to this rule may be transmitted to a pharmacy via computer-to-computer transmission as provided in rule 21.8(124,155A) or via facsimile transmission as provided in rule 21.9(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature.

21.7(3) Printed (hard-copy) prescriptions. A prescription prepared pursuant to this rule may be printed by the prescriber or prescriber's agent for delivery to a pharmacy.

a. A prescription for a controlled substance shall include the prescriber's original signature.

b. If the prescriber authenticates a prescription for a non-controlled prescription drug utilizing an electronic signature, the printed prescription shall be printed on security paper that is designed to prevent photocopying, scanning, or other duplication of the printed prescription by prominently disclosing the word "void" or "copy" on the duplication ~~and may include other security features such as watermarks or erasure-resistant inks or by including a watermark or background that will not appear on duplication.~~ *If a watermark or background is used, the prescription shall include a statement that unless the watermark or background appears, the prescription is not valid.*

c. *When a prescription prepared pursuant to this subrule is transmitted to a pharmacy via facsimile, or when a prescription prepared pursuant to this subrule is scanned to an electronic record system, the watermark or background will not appear or the word "void" or "copy" will appear. It is the responsibility of the pharmacist to verify the validity of the prescription as provided by rule 657—8.19(124,126,155A) or 21.3(124,155A).*

ITEM 3. Amend rule 657—21.8(124,155A), introductory paragraph, as follows:

657—21.8(124,155A) Computer-to-computer transmission of a prescription. Prescription drug orders, excluding orders for controlled substances, may be communicated directly from a prescriber's computer to a pharmacy's computer prescription processing system by electronic transmission.

The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 21.3(124,155A).

ITEM 4. Amend rule 657—21.9(124,155A) as follows:

657—21.9(124,155A) Facsimile transmission (fax) of a prescription. A pharmacist may dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription faxed to the pharmacy by the prescribing practitioner or the practitioner's agent. The faxed prescription drug order shall serve as the original prescription, shall be maintained for a minimum of two years from the date of last fill or refill, and shall contain all information required by Iowa Code section 155A.27, including the prescriber's signature or electronic signature. *The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 21.3(124,155A).*

ARC 5501B

PUBLIC SAFETY
DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 51, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code chapter 101 charges the State Fire Marshal with establishing standards for the transportation, storage, handling, and use of flammable liquids, liquefied petroleum gases, and liquefied natural gases. Rules covering all of these subjects are contained in 661—Chapter 51 of the Iowa Administrative Code.

The rules proposed herein address two issues: stationary storage of petroleum products using tank vehicles; and the deadline for using dispensing equipment for ethanol blend fuels which are not approved by an independent testing laboratory for that use. A general update of the rules regarding flammable and combustible liquids is anticipated to take place in a separate rule making within the next few months, but these issues require timely attention.

The use of tank vehicles and tank cars for stationary storage of flammable liquids creates a hazard of fire or explosion. The amendment to rule 661—51.200(101) contained in Item 1 will clarify that tank vehicles and tank cars may not be used in lieu of storage tanks for storage of flammable liquids. Because of the potential hazard created by use of tank vehicles and tank cars for this purpose, the Fire Marshal may proceed with final adoption of these amendments through the Adopted and Filed Emergency After Notice procedure after the public hearing has been held.

Subrule 51.202(1) establishes the requirements for dispensing of motor vehicle fuel. The subrule currently allows for the use of dispensing equipment for ethanol blend fuel

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(E-85) which has not been "listed" (approved for a specific use) by an independent testing laboratory, provided that certain conditions are met. The subrule currently allows for this exception to the national standard (which does require the use of listed equipment) until July 1, 2007. The Iowa General Assembly recently enacted 2006 Iowa Acts, House File 2754, which provides that use of nonlisted dispensing equipment will be permitted until July 1, 2009, provided that certain conditions are met. The amendment in Item 2 changes the deadline for use of nonlisted dispensing equipment to comply with the statute.

A public hearing on these proposed amendments will be held on November 16, 2006, at 1:30 p.m. in the State Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, no later than one day prior to the hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by November 16, 2006. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on November 16, 2006.

These amendments are intended to implement Iowa Code chapter 101.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 661—51.200(101) as follows:

661—51.200(101) Flammable and combustible liquids. NFPA 30, "Flammable and Combustible Liquids Code," 2000 edition, is adopted by reference as the rules governing flammable and combustible liquids, with the following amendments:

Delete subsection 2.3.2.5 and insert in lieu thereof the following:

2.3.2.5 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

EXCEPTION: Emergency internal check valves are not required on crude oil tanks in oil fields, on tanks at refineries, or on tanks at terminals which are equipped with a swing line or where facilities are provided to transfer the contents of the tank to another tank in case of fire.

Delete paragraph (b) of subsection 2.3.2.3.3 and insert in lieu thereof the following new paragraph (b):

(b) The tank system shall have top only openings and shall be either an Underwriters Laboratories-listed steel double-walled tank or an Underwriters Laboratories-listed steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards (e.g., those codified by the American Petroleum Institute, the Steel Tank Institute and the American Concrete Institute).

Add the following new paragraphs to subsection 2.3.2.3.3:

(j) The tank fill opening shall be provided with a spill container that will hold at least 5 gallons.

(k) The interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

Add the following new section 4.2.2.3:

4.2.2.3 *Tank cars and tank vehicles shall not be used as storage tanks.*

ITEM 2. Amend subrule 51.202(1) as follows:

51.202(1) Except as allowed by rule 661—51.203(101), NFPA 30A, "Automotive and Marine Service Station Code," 2000 edition, is adopted by reference as the rules governing dispensing motor vehicle fuel into the fuel tanks of motor-driven vehicles, with the following amendments:

Delete subsection 4.3.2.7 and insert in lieu thereof the following:

4.3.2.7 Each tank having a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment shall be located at least:

(a) 40 feet from the nearest important building on the same property;

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

(c) 100 feet away from any residence or place of assembly.

EXCEPTION: All distances may be reduced by 50 percent for tanks installed in vaults that comply with subsection 4.3.3 or are UL-listed aboveground double-walled tanks that have a two-hour fire-resistive rating and that comply with subsection 4.3.4 or 4.3.5.

Add the following new section:

6.9 Dispensing of E-blend.

6.9.1 Definitions.

"E-10" means a blend of petroleum and ethanol including no more than 10 percent ethanol intended for use as a motor vehicle fuel.

"E-blend" means a blend of petroleum and ethanol including more than 10 percent ethanol intended for use as a motor vehicle fuel.

6.9.2 Requirements for equipment dispensing E-blend prior to July 1, 2007 2009.

Prior to July 1, 2007 2009, E-blend may be dispensed from equipment listed for use with gasoline or E-10, provided that the equipment is fully in compliance with all requirements for use in dispensing gasoline or E-10 if the manufacturer states:

(1) That the equipment is, in the opinion of the manufacturer, not incompatible with E-blend, and

(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment for use in dispensing E-blend.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

"Manufacturer states" means that the manufacturer has provided a written statement, with reference to a particular type and model of equipment, signed by a responsible official on behalf of the manufacturer either to the retail outlet using the dispensing equipment or to the fire marshal. If the written statement is provided to a retail outlet, the written statement shall be retained in the files on the premises of the retail outlet and shall be available to personnel of the fire marshal division or the department of natural resources on request.

6.9.3 Retail outlets which had been dispensing E-blend prior to August 1, 2005.

A retail outlet which had been dispensing E-blend prior to August 1, 2005, may continue to do so until July 1, 2007 2009, with existing equipment provided that:

(1) The dispensing equipment fully complies with the requirements established in NFPA 30A for dispensing E-10.

(2) The dispensing equipment has not been found by the manufacturer or an independent testing laboratory to be incompatible with the dispensing of E-blend.

6.9.4 Requirements for equipment dispensing E-blend on or after July 1, 2007 2009.

On or after July 1, 2007 2009, any equipment used to dispense E-blend shall be listed for dispensing E-blend.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for October is 7.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants Maximum 6.0%

74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective October 10, 2006, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.95%
32-89 days	Minimum 2.95%
90-179 days	Minimum 3.30%
180-364 days	Minimum 3.60%
One year to 397 days	Minimum 3.80%
More than 397 days	Minimum 4.65%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%
January 1, 2006 — January 31, 2006	6.50%
February 1, 2006 — February 28, 2006	6.50%
March 1, 2006 — March 31, 2006	6.50%
April 1, 2006 — April 30, 2006	6.50%
May 1, 2006 — May 31, 2006	6.75%
June 1, 2006 — June 30, 2006	7.00%
July 1, 2006 — July 31, 2006	7.00%
August 1, 2006 — August 31, 2006	7.25%
September 1, 2006 — September 30, 2006	7.00%
October 1, 2006 — October 31, 2006	7.00%
November 1, 2006 — November 30, 2006	6.75%

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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

The intent of the proposed amendments is to reflect the operational changes that the Iowa Veterans Home has undertaken since the last revision.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 14, 2006. Such written materials should be directed to Daniel R. Steen, Commandant, Iowa Veterans Home, 1301 Summit, Marshalltown, Iowa 50158-5485; or faxed to (641) 753-4278. E-mail may be sent to daniel.steen@ivh.state.ia.us. Persons who wish to convey their views orally should

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

contact the Commandant's office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendments will be held on November 16, 2006, at 10 a.m. in Ford Memorial Conference Room at the Iowa Veterans Home, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received, the public hearing will be canceled without further notice.

These amendments are intended to implement Iowa Code chapter 35D.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **801—10.1(35D)** as follows:

Amend the following definitions:

"Adjutant" means the chief executive assistant of the commandant in charge of admissions, ~~member financial affairs, benefits programming and veterans affairs who functions as the chief operations officer.~~

"Honorable discharge" means separation or retirement from active military, ~~naval or air force armed service after the satisfactory completion of the period of service to which a person was obligated at time of entry into service, or release from that obligation because of service-connected disabilities. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility).~~ Honorable discharge includes general discharges *under honorable conditions*.

"Veteran" means a person who served in the active military, ~~naval, coast guard, or air force armed services of the United States, and who was discharged or released therefrom under conditions other than dishonorable. Honorable and general discharges qualify a person as a veteran. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility).~~

"Voluntary discharge" means ~~when~~ a member wishes to terminate the member's association with IVH on a permanent basis. This includes discharge for medical reasons which have been approved by a qualified ~~physician medical provider.~~ All other discharges are involuntary.

Rescind the following definition:

~~"Clinical coordinator" means the chief executive assistant of the commandant in charge of clinical programming.~~

Adopt the following **new** definitions in alphabetical order:

"Director of admissions" means the public service executive responsible for the admissions process, benefits programming, and member financial affairs.

"Director of resident and family services" means the administrator responsible for social work services, substance abuse programs, and chaplain services for members.

"Medical provider" means a doctor of medicine or osteopathic medicine who is licensed to practice in the state of Iowa. Except as defined by Iowa law, a medical provider also means an advanced registered nurse practitioner or physician assistant who is licensed to practice in the state of Iowa.

ITEM 2. Amend subrule 10.2(1) as follows:

10.2(1) Veterans shall be eligible for admittance to IVH in accordance with the following conditions:

a. The individual does not have sufficient means for the individual's support, or the individual is disabled by reason of disease, wounds, old age or otherwise and is in need of one of the multilevels of care available at IVH and is unable to defray the expenses of the necessary care, except as described at paragraph "d e."

b. *The individual cannot be employed on the day of admission.*

b c. The individual shall have met the residency requirements of the state of Iowa on the date of admission to IVH.

e d. An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.

d e. Individuals who have sufficient means for their own care but who are otherwise eligible to become members of IVH may, if there is room for individuals described in paragraph "a" above, be admitted and allowed to remain at IVH upon payment of the cost of the individual's care in accordance with rules 10.14(35D) to 10.23(35D).

e f. The individual must be eligible for care and treatment at a DVA medical center (*excluding financial eligibility*).

f g. Individuals admitted to the domiciliary level of care must meet DVA criteria stated in Department of Veterans Affairs, State Veterans Homes, Veterans Health Administration, M-5 1, Part 8 1, Chapter 1.05(e), (i) and (j) (1), (2) and (3) 3.11(h) (1), (2), and (3), and have prior DVA approval if the individual's income level exceeds the established cap.

ITEM 3. Amend subrule **10.3(2)**, paragraphs "c" and "d," as follows:

c. ~~Mental health institutions operated by the state of Iowa.~~

d. IVH.

ITEM 4. Amend subrule 10.3(3) as follows:

10.3(3) The applicant shall be scheduled for a physical examination by a ~~licensed physician medical provider~~ and the results of the examination shall be entered on the application by the examining ~~physician medical provider.~~ If the applicant has had a complete physical examination within ~~30 days~~ *three months* of application, a copy of this physical shall suffice. Information must be authenticated by ~~physician's the medical provider's~~ original signature.

ITEM 5. Amend subrule **10.3(4)** by adding **new** paragraphs "i" and "j" as follows:

i. A completed "Applicant Information," Form 475-1577.

j. A signed "Consent to Release of Information," Form 475-0859 (VA Form 10-5345).

ITEM 6. Amend subrule 10.3(5) as follows:

10.3(5) Once the requirements of subrules 10.3(2), 10.3(3) and 10.3(4) have been met, the county commission of veterans affairs shall forward the completed application to the ~~adjutant's admissions~~ office at IVH. No county shall require additional requirements for the application for admission beyond the requirements stated in these rules. Neither shall a county require additional forms to be filled out or provided by the applicant other than the forms required by these rules.

ITEM 7. Amend subrule 10.4(1) as follows:

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10.4(1) Applications received by the ~~adjutant's~~ *admissions* office shall be reviewed for completeness. The county commission of veterans affairs shall be required to submit additional information if needed.

ITEM 8. Amend subrule 10.4(3) as follows:

10.4(3) Regardless of whether or not the applicant can be immediately admitted, the applicant shall be notified by the ~~adjutant through the county commission of veterans affairs~~ *director of admissions* of the applicant's designated level and category of care. An applicant who does not wish to be admitted to the designated level and category of care may submit evidence to show that another level or category of care may be more appropriate. However, once the admissions committee makes a final determination, the applicant who does not wish to be admitted under the designated level or category of care may withdraw the application in writing or have the application denied.

ITEM 9. Amend subrule **10.4(5)**, paragraph "a," as follows:

a. An applicant whose physical examination or personal functional assessment, or both if applicable, was completed more than ~~six~~ *three* months prior to the scheduled date of admittance may be required to obtain another physical examination by a ~~licensed private or DVA physician~~ *medical provider* or complete a current personal functional assessment, or both if applicable. This information shall be reviewed to determine that the applicant is capable of functioning at the previously determined level of care and category.

ITEM 10. Amend subrules 10.6(1), 10.6(2), and 10.6(3) as follows:

10.6(1) The applicant shall be notified ~~through the county commission of veterans affairs~~ *by the director of admissions* to appear for admission to IVH.

10.6(2) Upon arrival at IVH the applicant or legal representative shall report to the ~~adjutant's~~ *admissions* office for an admission interview.

10.6(3) During the interview, the ~~adjutant~~ *director of admissions* or designee shall review the following items with the applicant or legal representative:

- a. The applicant's resources.
- b. The member support, billing process and banking services.
- c. The "Contractual Agreement," Form 475-0694.

ITEM 11. Amend subrule 10.6(7) as follows:

10.6(7) Care at IVH shall be provided in accordance with Iowa Code chapter 135C; 481—Chapter 57, Residential Care ~~Facility~~ *Facilities*; 481—Chapter 59 58, Nursing ~~Facility~~ *Facilities*; and DVA State Veterans Homes, Veterans Health Administration, M-5, Part 8, Chapter 2, 2.06, 2.07 and 2.09, November 4, 1992.

ITEM 12. Amend subrule 10.11(3) as follows:

10.11(3) If a member is incompetent and not restored to legal capacity, or if the ~~attending physician~~ *medical provider* determines that a member is incapable of understanding and exercising these rights, the rights devolve to the member's legal representative.

ITEM 13. Amend subrule **10.12(1)** as follows:

Amend paragraphs "a" and "d" as follows:

a. To timely report the existence of or changes in the member's income, spouse's income, assets or marital status, including the conversion of nonliquid assets to ~~cash~~ *or* liquid assets. The member shall also complete the change report which is enclosed with the monthly member support bill.

d. To report unexpected changes in the member's condition to the attending ~~physician~~ *medical provider* or other clinician.

Add ~~new~~ paragraph "r" as follows:

r. To delegate to IVH the authorization to enroll the member in a prescription drug plan. The premium shall be deducted from the member's social security.

ITEM 14. Amend subparagraph **10.16(2)"a"(10)** as follows:

(10) An amount that is irrevocable and separately identifiable, not in excess of \$7500 ~~8514~~ principal, *without an itemized billing*, for the member or spouse to meet the burial and related expenses of that person.

ITEM 15. Amend subrule **10.16(2)**, paragraphs "b" and "d," as follows:

b. Assets of a single member. When liquid assets, not exempted in paragraph "a" above, are equal to or exceed \$2000, those liquid assets shall be considered an available resource for payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, *but leaving at least \$120*.

d. Assets of a married member with spouse living in the community. When liquid assets, not exempted in paragraph "a" above, are equal to or exceed \$2000, those liquid assets shall be considered an available resource for payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, *but leaving at least \$120*.

The assets attributed to the member shall be one-half of the documented assets of both the member and spouse living in the community as of the first day of admission to IVH *after the first \$24,000 is exempted for the community spouse*. However, if one-half of the resources is less than \$24,000 (the amount set by 441 IAC 75.5(3)"d" and "f," Public Law 100-365 and Public Law 100-485), then that amount shall be protected for the spouse living in the community. ~~Resources~~ *Other resources* attributed to the spouse living in the community shall be ~~the Medicaid attribution amount up to a maximum as established by statute determined by the department of human services through the attribution process~~.

ITEM 16. Amend subparagraph **10.16(2)"d"(3)** as follows:

(3) Report of results. ~~IVH~~ *The department of human services* shall provide the member and spouse and legal representative, if applicable, a report of the results of the attribution. The report shall state that either has a right to appeal the attribution in accordance with rule 10.45(35D).

ITEM 17. Amend subrule 10.20(3) as follows:

10.20(3) When a member receives a nonrecurring retroactive payment from a specific entitlement source for a prior period of time, it shall be considered as income in the month received. *The aid and attendance amount of the DVA pension shall be computed as a manual adjustment (available to member due to IVH nursing care).*

ITEM 18. Add ~~new~~ subrule 10.20(10) as follows:

10.20(10) Through IVH programs, employment is only allowed in the community reentry program (IVH policy #265A) or the IVH discharge planning policy (IVH policy #265).

ITEM 19. Amend subrule 10.23(2) as follows:

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

10.23(2) If a member is required to pay full member support under these rules, the monthly charge shall be calculated as the per diem in paragraph 10.15(1)“a” or 10.15(1)“b” times the billable days less any offsets. *The only exception to this monthly charge will be the additional amount of aid and attendance in the DVA retroactive payment for the time period of nursing care at IVH.* This amount, in total, shall be due regardless of resources available. If a member is required to pay member support based on additional resources, these figures shall be obtained from the appropriate agencies.

ITEM 20. Amend subrule 10.35(7) as follows:

10.35(7) Upon the death of a member with personal funds deposited with IVH, IVH must convey promptly the member's funds to any outstanding funeral home bill, the individual paying last funeral expenses, or whoever is administering the member's estate. *A If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.*

ITEM 21. Amend paragraph **10.36(1)“d”** as follows:

d. All furloughs other than free time shall require payment of member support charges as though the member were in residency. Failure to pay regular member support charges shall result in discharge of the member. Furlough length may be changed by notification from the member or legal representative to the ~~commandant or designee nursing unit social worker or domiciliary office.~~

ITEM 22. Amend subrule **10.36(2)**, paragraphs “c” and “d,” as follows:

c. The member's bed shall be held while the member is visiting away from IVH for a period not to exceed 18 days in any calendar year. There is no restriction as to the amount of days taken in any one month or during any one visit, as long as the days taken in the calendar year do not exceed 18. Additional days shall be allowed if the member's ~~physician~~ *medical provider* recommends in the plan of care that additional days would be rehabilitative.

d. A member or a legal representative who wishes to exceed the 18 visitation days and retain the member's bed, but does not have ~~physician~~ *medical provider* recommendation for an extension, must make arrangements with the ~~adjutant~~ *director of admissions* or designee for payment of the rate determined by the department of human services income maintenance worker for all days in excess of the 18 visitation days. If prior arrangements and payment are not made, a member may be discharged in accordance with subrule 10.12(2).

ITEM 23. Amend subrule **10.40(1)** as follows:

Amend paragraphs “a,” “b,” “c,” and “d” as follows:

a. The use of intoxicants or alcoholic beverages on IVH premises is prohibited unless prescribed by a ~~physician~~ *medical provider*.

b. The bringing of alcoholic beverages or illicit substances on IVH premises is prohibited. *Any illicit substances or drug paraphernalia or both found in the member's possession shall be grounds for immediate discharge.*

c. Firearms or weapons of any nature shall be turned in to the adjutant or designee for safekeeping. The adjutant or designee shall decide if an instrument is a weapon. *Firearms or weapons in the possession of a member which constitute a*

hazard to self or others shall be removed and stored in a place provided and controlled by the facility.

d. Smoking in members' rooms is prohibited. Members who smoke shall do so within designated smoking areas *so as not to endanger self or others.*

Add the following **new** paragraphs:

f. Members shall comply with legal requests and orders of the commandant or designee.

g. Members shall not violate state and federal statutes.

h. Members shall report to the director of admissions or designee any changes in assets/income, and pay support by the tenth of each month.

ITEM 24. Amend subparagraph **10.40(2)“b”(2)** as follows:

(2) If, after a period of up to six months, the member's behavior is ~~orderly and sober, the deposit shall deemed appropriate by the facility, the handling of funds will be reviewed, and funds may be returned to the member.~~

ITEM 25. Amend subrule 10.42(2) as follows:

10.42(2) Following written notification to the legal representative *or first next of kin*, a deceased member's personal property remaining at IVH 30 days after written notification shall become the property of IVH to dispose of as the commandant or designee directs. If there is a known legal representative *or first next of kin*, the property may be shipped to the legal representative *or first next of kin* at the expense of the estate, ~~or legal representative, or first next of kin.~~

ITEM 26. Amend subrules 10.46(1), 10.46(2) and 10.46(3) as follows:

10.46(1) A member shall discuss the problem and action desired with the assigned social worker within five working days of the incident which caused the problem. The social worker shall investigate the situation and attempt to resolve the problem within five working days of the discussion with the member. If the assigned social worker has allegedly caused the grievance, the member may file the grievance directly with the ~~clinical coordinator~~ *director of resident and family services.*

10.46(2) If unable to resolve the problem, or if the member is dissatisfied with the solution, the social worker shall assist the member with filing a formal grievance and shall submit a report of the facts and recommendations to the ~~clinical coordinator~~ *director of resident and family services* within five working days of the discussion with the member. The ~~clinical coordinator~~ *director of resident and family services* shall inform the member of the decision in writing within five working days of receipt of the social worker's report.

10.46(3) If the member is not satisfied with the ~~clinical coordinator's~~ *decision of the director of resident and family services*, or if no decision is given within the time specified in subrule 10.46(2), the member may appeal to the commandant within ten working days of the decision *of the director of resident and family services*, or, if no decision is given, within ten working days of the time limit specified in subrule 10.46(2). The grievance shall be submitted in writing and contain a statement of the cause of the grievance and requested action. A copy of the decision *of the director of resident and family services* shall be attached to the grievance statement, if applicable. The commandant shall investigate the grievance and may hold an informal hearing with the member, ~~clinical coordinator~~ *director of resident and family services*, and other involved individuals. The commandant shall notify the member and the ~~clinical coordinator~~ *director of resident and family services* of the decision in writing within ten working days of receipt of the grievance.

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ITEM 27. Amend subrule 10.50(5) as follows:

10.50(5) Any disruptive behavior on the part of a visitor shall result in modification, denial or termination of ~~visit~~ *visiting privileges*.

ITEM 28. Amend subrule 10.51(2) as follows:

10.51(2) Each competent member shall be allowed to handle that member's mail to the degree of responsibility chosen by the member. A member may:

- a. Elect to receive all mail personally and provide the ~~adjutant's~~ *admissions* office with financial documentation, or
- b. Designate that the member shall receive personal mail items, but mail received at IVH from entitlement sources or concerning assets shall be routed to the ~~adjutant~~ *director of admissions* or designee.

ITEM 29. Amend subrules 10.52(1) and 10.52(2) as follows:

10.52(1) Releases to the news media shall be the responsibility of the commandant *or designee*. Authority for dissemi-

nation and release of information shall be designated to other persons at the discretion of the commandant *or designee*.

10.52(2) Interviews of members within IVH by the news media or other outside groups are permitted only with the prior written consent of the member to be interviewed or the member's legal representative. At the request of the person or group who wishes to conduct an interview, the commandant *or designee* shall seek to obtain the required consent from the member or the member's legal representative.

ITEM 30. Amend subrule 10.54(1) as follows:

10.54(1) Photographs and recordings of members within IVH by news media or other outside groups are permitted only with the prior written consent of the member to be photographed or recorded, or the member's legal representative. At the request of the person or group who wishes to make photographs or recordings, the commandant *or designee* shall seek to obtain the required consent from the member or the member's legal representative.

ARC 5483B

AGRICULTURAL DEVELOPMENT
AUTHORITY[25]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 175.6, the Agricultural Development Authority hereby adopts Chapter 6, "Beginning Farmer Tax Credit Program," Iowa Administrative Code.

These rules establish the application process for the Beginning Farmer Tax Credit Program and provide qualifications and rules for the program.

2006 Iowa Acts, Senate File 2268, provides a tax credit to agricultural asset owners that rent their assets to qualified beginning farmers who are residents of Iowa. The tax credit is 5 percent of the rental income received on cash rental agreements and 15 percent of the rental income received on share agreements.

To qualify as a beginning farmer, a person must be eligible to receive financial assistance under Iowa Code section 175.12. Under this section, the beginning farmer applicant must have a net worth not in excess of \$300,000. In addition, the applicant must be a resident of the state of Iowa; have sufficient education, training or experience in farming; and have access to adequate working capital, equipment and other items necessary to operate the farm. The beginning farmers shall materially and substantially participate in the operation of the farm.

In compliance with Iowa Code section 17A.4(2), the Iowa Agricultural Development Authority finds that notice and public participation are impracticable because of the immediate need for the rules in order to implement the statute in a timely manner.

Furthermore, the Agricultural Development Authority finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and the rules be made effective on November 1, 2006, as the rules confer a benefit upon the agricultural community by encouraging landowners to rent farmland to beginning farmers.

These rules are published herein under Notice of Intended Action as **ARC 5489B** to allow public comment. The emergency filing permits the Agricultural Development Authority to implement the new provisions of the law.

The Iowa Agricultural Development Authority adopted these rules on September 27, 2006.

These rules are intended to implement Iowa Code chapter 175 as amended by 2006 Iowa Acts, Senate File 2268.

These rules will become effective November 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Adopt the following **new** chapter:

CHAPTER 6

BEGINNING FARMER TAX CREDIT PROGRAM

25—6.1(175) Definitions.

"Agricultural asset" means agricultural land, agricultural improvements or depreciable agricultural property used for farming purposes. "Farming" is defined by Iowa Code section 175.2(10).

"Agricultural asset transfer agreement" means any commonly accepted written agreement which specifies the terms of the transfer of operation of the agricultural asset. This may be made on a cash basis or a commodity share basis.

"Agricultural improvements" means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. "Agricultural improvements" includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the building.

"Agricultural land" means land suitable for use in farming and which is or will be operated as a farm.

"Application" means a completed instrument with all of the information required by rule 25—6.3(175). The time of application is when a completed application from all parties is received by the authority.

"Cash basis agreement" means an agreement whereby operation of the agricultural asset is transferred via a fixed cash payment per annum.

"Commodity share basis" means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production and payment for use of the agricultural asset.

"Depreciable agricultural property" means personal property suitable for use in farming for which an income tax deduction for depreciation or cost recovery is allowable in computing federal income tax under the Internal Revenue Code and which is eligible for the beginning farmer tax credit.

"Eligible applicant" means an individual who is a beginning farmer as defined in Iowa Code section 175.12 who satisfies all of the criteria contained in 2006 Iowa Acts, Senate File 2268, and provisions of these rules relating to recipient eligibility and who operates or will operate a farm.

"Farm" means a farming enterprise which is recognized in the community as a farm rather than a rural residence.

"Taxpayer" means a person or entity who may acquire or otherwise obtain or lease agricultural land in the state pursuant to Iowa Code chapter 9H or 9I. An individual may claim a tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed shall be based upon the pro-rata share of the individual earnings from the partnership, limited liability company, S corporation, estate, or trust. A taxpayer must also meet the requirement of 2006 Iowa Acts, Senate File 2268, section 2.

"Total assets" shall include but not be limited to the following: cash; crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities (not readily marketable); accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery, equipment, cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in a trust; government payments or grants; any other assets.

"Total assets" shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the applicant. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of 10 percent may be made from fair market value of farm and other real estate. The applicant should complete the financial statement disregarding this deduction and the authority will make the appropriate adjustments to the statement.

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"Total liabilities" shall include but not be limited to the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amount owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; any other liabilities.

Liabilities shall be determined on the basis of generally accepted accounting principles.

25—6.2(175) General provisions.

6.2(1) Eligibility. To qualify for this credit, the taxpayer must meet all the requirements of Iowa Code chapter 9H or 9I, 2006 Iowa Acts, Senate File 2268, section 2, and these rules. The beginning farmer must meet all requirements of Iowa Code section 175.12 and these rules.

6.2(2) Term. The term of the credit shall be equal to the term of the agricultural assets transfer agreement, except that any unused credit may be carried forward for a period of five years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

6.2(3) Fees. The authority may charge reasonable and necessary fees to defray the costs of this program.

6.2(4) Expiration of lease. The beginning farmer will continue to be an eligible beginning farmer for the term of the lease. Upon expiration of the lease, both the agricultural asset owner and beginning farmer must reapply to continue the tax credit.

25—6.3(175) Application procedures.

6.3(1) The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the asset owner and the beginning farmer applicant.

6.3(2) Each agricultural asset owner's application shall include, but not be limited to, the following: name and address, social security number, length of the lease, type of lease, and location of the agricultural asset to be leased. In addition, the asset owner application shall have attached to it a copy of the lease agreement between the parties and shall be due no later than the fifteenth day of the month in which approval is requested.

6.3(3) Each beginning farmer application shall include, but not be limited to, the following: name and address, social security number, and location of the asset to be leased. In addition, the beginning farmer application shall have attached to it a copy of the beginning farmer's financial statement, completed within 30 days of receipt by the authority. The application will also include a background letter on the beginning farmer. This letter may be submitted by one or more of the following: the beginning farmer, the agricultural asset owner or another third party. This letter shall state that the beginning farmer has access to working capital, sufficient education, knowledge or training to complete the project and that the beginning farmer has access to adequate other items (such as machinery and equipment) to carry out the terms of the lease.

6.3(4) Applications shall be processed in the order they are received by the authority.

6.3(5) The authority shall, by majority vote, approve each application before the tax credit is issued.

25—6.4(175) Execution of an agricultural assets transfer agreement. In addition to the requirements set forth above, both the taxpayer (agricultural asset owner) and the beginning farmer shall execute an agricultural assets transfer agreement. This form shall be in a format from the Iowa Bar Association or other commonly accepted form and signed by all parties.

25—6.5(175) Procedures following tax credit approval.

6.5(1) Either the beginning farmer or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. The authority shall act upon these changes pursuant to 2006 Iowa Acts, Senate File 2268, section 2.

6.5(2) The beginning farmer shall annually by April 15 submit to the authority a copy of the Schedule F for the previous year. This schedule should document that the beginning farmer paid cash rent, received income and incurred expenses associated with operating the agricultural asset under the terms of the lease agreement.

These rules are intended to implement Iowa Code chapter 175 as amended by 2006 Iowa Acts, Senate File 2268.

[Filed Emergency 10/3/06, effective 11/1/06]

[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5482B**SECRETARY OF STATE[721]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Chapter 22, "Voting Systems," and Chapter 26, "Counting Votes," Iowa Administrative Code.

These amendments were developed in consultation with the county commissioners of elections after the 2006 primary election. The purpose of these amendments is to clarify the proper method for handling voting equipment testing and other issues that were noted during the primary election.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5371B**.

Comments were received from concerned citizens and from county commissioners of elections. In response to many of those comments, the amendments have been changed from the Notice of Intended Action. The following changes have been made:

1. An amendment has been added to remove the prohibition in 21.2(3)"b" against faxing abstracts of votes. In Item 1 of the Notice, permission was granted to submit abstracts by fax. This change removes an unintended conflict.

2. The requirement in 21.301(2)"a" that county commissioners mark the absentee ballot serial number on voter registration forms mailed to absentee voters has not been adopted. County commissioners report that this procedure is unnecessary.

3. The catchwords in 22.39(1) have been amended to omit the word "insufficient."

4. The test described in 22.39(3)"a"(2) as "Logic test" has been renamed "Visual test." This phrase is a more accurate description of the nature of the test.

5. Other changes to 22.39(3) permit the commissioner to determine the number of votes assigned to each voting position during testing. An additional instruction has been added telling the commissioner to prepare the DRE for public testing at the conclusion of the preelection test and to test the process for transmission and compilation of election results.

6. Subrule 22.39(4) now requires commissioners to conduct public tests in election mode if the voting system has more than one operational mode.

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7. Subrule 22.39(5) has been deleted from the public test requirements. It repeats unnecessarily the requirement that the commissioner test the compilation of election results. See change number 5 above.

8. Additional instructions have been included in the optical scan testing procedures in rules 721—22.41(52) and 721—22.43(52) to clarify that preelection and public testing must also be done for the tabulation devices that will be used to count absentee ballots.

9. The rules describing the preparation of test decks (rules 721—22.42(52) and 721—22.43(52)) have been refined to simplify the instructions and to clearly describe the process. These changes were recommended by detailed comments received from the leaders of the voting system user groups. The result is that the rules are simpler to understand and achieve the result of fully testing all the necessary elements of ballot printing and optical scan tabulation.

10. A requirement has been added to rule 721—22.52(52) that persons who come to the polls on election day to attempt to repair malfunctioning voting equipment must show identification to the precinct election officials.

11. In subrule 22.464(4), the process for printing zero totals tapes and results from AccuVote TSX DREs has been modified to remove the requirement that the commissioner use the dual roll option.

The agency finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on October 4, 2006, as they confer a benefit on the county commissioners of elections by providing guidance to them as they prepare and test voting equipment for the general election.

These amendments are intended to implement Iowa Code chapters 50 and 52.

These amendments became effective on October 4, 2006. The following amendments are adopted.

ITEM 1. Amend paragraph **21.2(1)“k”** as follows:

k. Abstracts of votes filed with the state commissioner of elections pursuant to Iowa Code section 50.46.

ITEM 2. Rescind subrule **21.2(3)**, paragraph “b,” and reletter paragraph “c” as “b.”

ITEM 3. Amend 721—Chapter 21 by adding the following **new** rule:

721—21.6(43,50) Turnout reports. For all elections, the commissioner shall prepare a report of the number of people who voted. The board of supervisors shall certify the turnout at the canvass of votes.

21.6(1) This report shall provide a single number that includes the number of persons:

- a. Who voted at the polls on election day,
- b. Whose absentee ballots were accepted for counting, and
- c. Whose provisional ballots were accepted for counting.

21.6(2) The report shall not include the number of persons whose absentee ballots or provisional ballots were not accepted for counting.

21.6(3) In primary elections, the report shall include the number of persons who voted in each political party and the total number of persons who voted in the county.

This rule is intended to implement Iowa Code sections 43.59 and 50.24.

ITEM 4. Amend rule 721—21.301(53) as follows:

721—21.301(53) Absentee ballot requests from voters whose registration records are inactive.

21.301(1) *In person.* Absentee voters whose registration records are inactive and who appear in person to vote, either at the office of the commissioner or at a satellite absentee voting station, shall be required to provide identification before voting. The voter may present any of the identification documents prescribed in subrule 21.3(3). If the voter does not have appropriate identification documents, the official or staff person receiving the application shall challenge the ballot and notify the voter that the voter must provide a copy of the appropriate form of identification not later than the date upon which the absentee and special precinct board will meet to review provisional ballots after election day pursuant to Iowa Code section 50.21.

21.301(2) *By mail.* When a request for an absentee ballot is received by mail from a voter whose registration record has been made inactive pursuant to Iowa Code section 48A.29, the commissioner shall respond to the request and enclose the following notice along with a voter registration form:

a. *Form.* The commissioner shall send a voter registration form and the following notice:

Notice to the Voter:

Your request for an absentee ballot has been received and processed. However, our records show that your voter registration is not currently active. To restore your registration, please complete the enclosed voter registration form and return it to:

County Auditor
(Address)

Return the registration form separately. Do not enclose it with your absentee ballot.

This registration form must be received in my office no later than (the time the polls close) on (election day), or be postmarked no later than (the day before election day).

WARNING: If the registration form is not properly completed and returned separately, your absentee ballot will not be counted.

b. *Instructions to commissioner.* If the registration form is received by the deadline for receipt of absentee ballots as prescribed in Iowa Code section 53.17, and all other legal requirements are met, the ballot shall be counted. If the return carrier envelope is received before the registration form, the envelope shall not be opened but shall be held until the deadline for receipt of absentee ballots. If the registration form has not been received by the deadline, the officials of the absentee and special voters precinct board shall open the return carrier envelope. If the registration form is enclosed, and all other legal requirements are met, the ballots shall be counted. However, if the registration form is not enclosed in the return carrier envelope, the affidavit envelope containing the ballot shall not be opened.

This rule is intended to implement Iowa Code sections 48A.29 and 53.2.

ITEM 5. Amend rule 721—22.39(52) as follows:

721—22.39(52) Preelection testing and public testing for direct recording electronic voting machine voting equipment machines. Before each election in which direct recording electronic (DRE) voting machines are used, the commissioner shall conduct preelection testing and public testing.

22.39(1) Automatic testing—insufficient. Some vendors provide an automatically generated test program for direct recording electronic voting machines. Although these tests provide the user with information about the internal integrity of the machine, the automatic test is not an adequate preelec-

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tion test; it does not include testing to show that the programming for the current election is correctly done; and it does not test the operation of the voter-operated functions of the machine.

22.39(2) Preelection testing. *The preelection testing shall be a part of the process of preparing for each election. Preelection DRE voting machine testing shall be conducted by authorized employees of the commissioner, working in two-person teams. One person shall read the test and document the process; the other person shall perform the test on the DRE voting machine. The process and results of the preelection test shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.*

22.39(2 3) Preelection test plan. *Before it is used in an election, the commissioner shall*

a. *As soon as possible after the program materials for an election are available and before the public test described in 22.39(4), the commissioner shall subject the direct recording electronic voting machine to the following tests.*

a. (1) Automated test. *Run the automated test on each machine and record the results.*

b. (2) Logie Visual test. *Verify that the correct visual ballot (and audio ballot, if any) is installed for each direct recording electronic voting machine to be used in the election.*

c. (3) Touch test. *As each visual ballot (and audio ballot, if any) is reviewed, select and then deselect each candidate to verify that the candidate can be selected as a choice; leave the first (or last or other standard choice) selected to provide a check of the summary report when the test is closed; and save this result for a report of the touch-test results.*

d. (4) Public test. *Select at least one direct recording electronic voting machine for each ballot style and test every office, judge and public measure on the ballot; and have copies of the touch-test results and the automated tests available for inspection. Accuracy test. Use each voting method (visual, audio, etc.) available to conduct the accuracy test. Prepare a written test plan to guide the entry of votes into the machine. This test shall be conducted as follows:*

1. *Record votes for each candidate for an office, including offices to which more than one person will be elected, with each candidate receiving a different number of votes. For example, the first candidate may receive one vote; the second candidate may receive two votes; the third candidate may receive three votes; and so on.*

2. *For offices to which more than one candidate will be elected, test each combination of candidates in addition to the test in numbered paragraph "1," above.*

3. *For each public measure and judge on the ballot, the "YES" position shall receive one vote and the "NO" position shall receive two votes, or vice versa.*

4. *Test every write-in position by selecting it at least once. Enter at least ten letters of the alphabet in the appropriate place. In the test, use all of the letters to make sure they function correctly. For offices with more than one person to be elected, test all of the write-in positions at the same time.*

5. *Attempt to overvote every office on the ballot.*

6. *For primary elections, verify that the voter may cast votes for the candidates of only one political party.*

7. *For general elections, test each straight party voting option separately from the tests listed in numbered paragraphs "1" through "5," above. Prepare a written plan to test the straight party voting option as follows:*

- *Assign a specific number of votes to each straight party option, such as one vote to the first straight party option, two votes to the second, and so on.*

- *For each straight party choice, select the straight party option, then, for each affected office, select the write-in option and write the name of the straight party choice being changed.*

- *Mark no other votes on this set of test ballots.*

8. *Print the results of the machine tabulation and compare the results with the written test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be available for inspection during the public test described in subrule 22.39(4) and shall be kept as part of the record of the election, as required by Iowa Code section 50.19.*

9. *Following the preelection test, the commissioner shall prepare the DRE for the public test.*

b. *The commissioner shall compile the results of all tests using the voting system's election reporting programs to demonstrate that the election reporting function will function correctly on election night and for the canvass of votes.*

22.39(4) Public test. *Every direct recording electronic voting machine that will be used in an election shall be tested publicly. If the voting system provides for both a test mode and an election mode, the public test shall be conducted with the voting machine in election mode. The commissioner shall provide notice to the chairpersons of the political parties and to the public as required by Iowa Code section 52.9. The test shall be done following a written plan, with one person operating the electronic voting machine and another person observing and verifying that the correct actions were taken. The tests shall be conducted as follows for each machine:*

a. *Before beginning the test, print a zero report.*

b. *Verify that each DRE voting machine has the correct ballot(s) for the election and for the precinct in which the DRE voting machine will be used.*

c. *Following a written plan, cast several ballots on the machine. Each candidate shall receive a different number of votes.*

d. *Compare the printed results with the written test plan.*

e. *The commissioner shall allow a reasonable amount of time for public participation. Members of the public, working with a person designated by the commissioner, may also provide a written test plan and test the operation of the DRE voting machines.*

f. *Following the test, print a zero totals report, and apply all required locks and seals and record the seal numbers on the appropriate documents.*

g. *Each person present at the test must sign a certificate of test, as required by Iowa Code section 52.9.*

22.39(3 5) Electronic transmission. *If the results will be transmitted electronically from the precincts on election night, the commissioner shall test each modem before election day by transmitting test results to the election reporting software. It is not necessary to perform this test at the polling places. However, before election day the commissioner should also determine the location and suitability of the telephone connections in polling places.*

ITEM 6. Amend rule 721—22.40(52), introductory paragraph, as follows:

721—22.40(52) Public testing of lever voting machines. *All lever voting machines shall be tested publicly before use at any election, as required by Iowa Code section 52.9.*

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ITEM 7. Rescind rule 721—22.41(52) and adopt the following **new** rule in lieu thereof:

721—22.41(52) Preelection testing of optical scan systems. As a part of preparation for use for each election, the commissioner shall thoroughly test all automatic tabulating equipment (including equipment that will be used for counting absentee ballots) before it is tested publicly as required by Iowa Code sections 52.35 and 52.38 and rule 721—22.43(52). The process and results of the preelection testing shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.

22.41(1) Each automatic tabulating device (including equipment that will be used for counting absentee ballots) shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used in the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled, and the write-in votes are reported correctly.

e. For primary elections, the tabulating equipment accurately records votes cast for all political parties.

f. For general elections:

(1) A ballot marked with only a straight party vote is recorded with one vote for each candidate of the designated political party, and no other votes are recorded for partisan offices;

(2) The voter may override a straight party vote by voting for any candidate not associated with that political party; and

(3) For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive a vote.

22.41(2) Conducting the test.

a. The commissioner shall follow the process described in rule 721—22.42(52) for preparing test decks.

b. If, during the test, there are differences between the test plan and the results produced by the optical scan device, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the faulty program or equipment shall not be used in the election.

c. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

ITEM 8. Amend rule 721—22.42(52) as follows:

721—22.42(52) Preparing test decks. *The commissioner shall prepare test decks from all ballots printed for use in the election, including those for use at the polling places and for absentee balloting. Test ballots for optical scan voting equipment shall test the reporting of votes for every office and pub-*

lic measure on the ballot at the election. Each of the following test decks shall be prepared for every precinct and ballot style in the election. Commissioners may use additional test methods to supplement the process described in this rule.

22.42(1) Requirements for all ~~hand-marked~~ test decks *prepared by the commissioner and used in preelection and public testing.*

a. The commissioner shall:

æ. (1) Never erase errors and never use correction fluid or correction tape to cover errors. Replace the ballot instead.

b. (2) Fill in each oval completely using the recommended pen or pencil.

ç. (3) Mark each ballot "Test Ballot:" and label each ballot to indicate whether it is from the systematic test deck, the overvote and blank ballot test deck or the straight party test deck.

b. *In counties where the AutoMARK VAT is used, the commissioner may prepare some test ballots using the AutoMARK VAT.*

c. *Hand-marked ballots that include folds, erasures, marginal or extra marks shall not be used in the test decks described in this rule. An additional set of test ballots may be prepared to test election-day conditions, particularly for folded absentee ballots.*

22.42(2) Single-vote test deck. ~~The commissioner shall use at least five ballots for this test deck. More ballots may be needed if the election includes rotated offices. The commissioner shall perform the following:~~

a. ~~On both sides of each ballot, fill in the oval for the same candidate in each office. Always mark the first candidate listed under the office title, unless the candidates are rotated from precinct to precinct.~~

b. ~~If the names of candidates are rotated, always mark the candidate whose last name comes first alphabetically. Mark one ballot for each rotation.~~

c. ~~For public measures and judges, fill in the oval for the "yes" choice.~~

d. ~~On general election ballots, always leave the straight party choice blank. (See subrule 22.42(5) for testing straight party voting.)~~

e. ~~Check each ballot to be sure it is correctly marked for this test. Count the ballots. The first candidate in each office should have the same number of votes as there are ballots. An office for which more than one person is to be elected will have undervotes reported. There should be no overvotes in this deck.~~

f. ~~Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes.~~

g. ~~Scan all ballots in this deck in each of the four possible orientations:~~

(1) Face up, head first.

(2) Face down, head first.

(3) Face up, feet first.

(4) Face down, feet first.

22.42(2) Test method. *The commissioner shall:*

a. *Prepare a test plan showing the planned number of votes, including undervotes and overvotes for each oval on the ballot. This plan includes ovals associated with candidates, write-in lines, judges and public measures and straight party voting. Follow the instructions in subrules 22.42(3) through 22.42(6) in preparing the test decks.*

b. *Mark the test ballots according to the test plan.*

c. *Print a zero totals report from the optical scan tabulator before inserting any ballots.*

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d. Insert the ballots into the optical scan tabulator and print a report showing the number of votes recorded for all offices, questions and judges, including undervotes and overvotes.

e. Compare the printed report with the test plan to ensure that the correct number of votes was counted for each oval.

f. If the commissioner finds errors, the commissioner shall identify and correct them. The commissioner shall repeat the testing process until the printed results from the tabulator match the test plan. If the commissioner cannot produce an errorless test, the equipment shall not be used in the election.

22.42(3) Random Systematic test deck. The commissioner shall use this deck to test each oval that was not tested in the single-vote test deck and on the ballot. The commissioner shall determine a systematic unique number of votes for each candidate in each office, such as one vote for each write-in oval for the office, two votes for the second candidate listed (or "NO" votes on public measures and judges), three votes for the third candidate, etc. Using the report showing the results of the single-vote test deck as a guide, the commissioner shall record the planned number of votes for each candidate and record the planned number of overvotes and undervotes in the appropriate places on the report. The basic plan is as follows: It is not necessary to have a different number of votes for each write-in oval in offices for which the voter may select more than one candidate. However, the write-in oval shall have a different number of votes marked than any candidate for the office. The commissioner shall:

a. Mark votes for each candidate except the one that was voted for in the single-vote test deck. On general election ballots, leave the straight party choice blank.

b. For offices without candidates (these will have the same number of write-in lines as there are candidates to be elected), determine a unique, varying combination of votes and undervotes for the office mark all of the write-in ovals for that office.

c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed on at least one ballot.

d. Include undervotes for all offices with only one candidate.

d. On a ballot that contains at least one valid vote, overvote one other office or question.

e. If there is only one office on the ballot, do not leave the office unmarked. The scanner will reject the ballot as blank.

f. For a single-precinct election, use at least two ballots in the random test deck.

g. Mark the test ballots according to the plan and check the marks on the ballots against the plan.

h. Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes. Check the report against the plan. If there are differences, hand-tally the ballots to be sure that the ballots were marked according to the plan.

22.42(4) System-specific testing requirements. Separate tests are prescribed for each certified voting system.

a. Election Systems & Software— Overvote overvote and blank ballot test. For an overvote and blank ballot test, the commissioner shall:

a. (1) Mark Overvote all voting targets offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.

b. (2) On a second ballot, overvote each office by one vote. If the test is for ballots that will be used in a general election, mark two straight party votes on one ballot. Do not mark any other ovals. In the test plan, this ballot should be tallied to show that the straight party selection was overvoted, and to show undervotes for all other offices and questions on the ballot.

e. (3) When the overvoted ballots are rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate. (Not all vendors report overvotes in the same way.)

(4) Insert a blank ballot. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.

(5) Orientation test. Mark the maximum number of choices for each office and question on one ballot.

Scan this ballot in each of the four possible orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

b. Diebold Election Systems.

(1) Blank and fully voted test. The commissioner shall use two ballots for this test.

1. Leave one ballot completely blank.

2. On the second ballot, mark every oval on both sides of the ballot.

3. Select "Test Blank Ballots" and insert the blank ballot in all four orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

4. Select "Test Fully Voted Ballots" and insert the second ballot in each of the four orientations listed in numbered paragraph "3" above.

5. Reinsert the blank ballot and the fully voted ballot and override the rejection feature.

(2) Overvote. Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.

22.42(5) Straight party test for general elections. For a straight party test, the commissioner shall:

a. Use at least two ballots for each straight party option. For each set of ballots:

(1) Mark only a straight party vote on one ballot votes in a pattern, such as one vote for the first straight party choice, two votes for the second, and so on, and tally the expected results. Do not mark anything else on this group of ballots.

(2) On the second ballot a second set of ballots containing as many ballots as there are straight party choices, mark the same straight party option and, for each office affected by the straight party vote, mark one candidate who is not a candidate for the selected party the write-in oval, and tally the expected results.

(3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with only a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.

b. Test each ballot separately. For each ballot:

(1) Scan the ballot and print a report showing the results for the whole ballot.

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(2) Check the report to be sure that the votes marked were counted correctly. When the straight party choice is marked and the voter also marks one or more individual candidates for a partisan office, the straight party vote is ignored for that office. This process applies to any mark for any candidate, write-in selection or overvote in that office.

e. Compile the results of the straight party test deck.

22.42(6) Combined Combining test deck decks. ~~The For preelection testing, the commissioner shall may run the combined test decks and compare the results to the test plan. The scanner results and the hand tally must match. tabulate the combined test decks after separately testing each one. For the public test, the commissioner may run only the combined test deck.~~

ITEM 9. Adopt the following **new** rule:

721—22.43(52) Public testing of optical scan systems. All automatic tabulating equipment (including equipment used to tabulate absentee ballots) shall be tested before use at any election, as required by Iowa Code sections 52.35 and 52.38.

22.43(1) The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

a. The correct program cartridge or memory card is in place for the election and the precinct or precincts in which it will be used.

b. The appropriate ballots are available for the test of each automatic tabulating device to be used in the election.

c. All counters are set at zero before the test is begun.

22.43(2) Each automatic tabulating device shall be tested to determine that the device and its programs will accurately tabulate votes for each candidate and question on the ballot. For this test, the commissioner may combine the test decks created for each precinct during preelection testing, as required by rule 721—22.42(52).

22.43(3) Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

The results tape from each scanner produced during the public test shall be signed by the person conducting the test and by any observers present at the test. The signers shall write their signatures at the end of the tape where it will be detached from the machine. The tape shall be torn or cut across the signatures, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester's signature, shall be retained with the appropriate test deck for the period of time required by Iowa Code section 50.19.

22.43(4) Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

a. Not more than ten ballots may be submitted by any person.

b. Only official ballots provided by the commissioner at the test shall be used. The commissioner shall provide sample ballots or photocopies of sample ballots to anyone upon request.

c. The preparer shall provide a written tally of the test deck.

d. The results of the machine tabulation shall be printed and compared with the preparer's tally. If there are differ-

ences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

e. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

ITEM 10. Amend 721—Chapter 22 by adopting the following **new** rule:

721—22.52(52) Voting equipment malfunction at the polls. The precinct election officials shall immediately cease using any malfunctioning voting equipment and report the problem to the commissioner. Only a person who is authorized in writing by the commissioner to do so shall be permitted to attempt to repair malfunctioning voting equipment. The person shall show identification to the precinct election official. The commissioner shall keep a written record of all known malfunctions and their resolution. The precinct election officials shall return the voting equipment to service only if the malfunction is corrected.

22.52(1) Routine resolution. Some problems may be easily resolved by following simple instructions. If the commissioner and the precinct election officials are able to resolve a problem without replacing the equipment, the officials shall document the problem, the time it occurred, how it was resolved, and by whom.

22.52(2) Repair or replacement. Repairs to voting equipment at the polls on election day shall be limited. If the problem cannot be easily resolved, a person who is authorized to do so by the commissioner shall replace the equipment as soon as possible. Two election officials, one from each political party, shall witness repair or replacement of any voting equipment, including memory cards. The authorized person making the repair or replacement and the two election officials shall sign a report of the incident.

ITEM 11. Rescind and reserve subrule **22.201(2)**.

ITEM 12. Amend subrule 22.240(3) as follows:

22.240(3) Unlock or remove the seal on the ballot box or bin containing ballots with write-in votes and open it. The precinct officials shall remove the ballots and manually count the write-in votes as required by 721—Chapter 26. The officials shall record the write-in votes in the tally list. *A single tally list is sufficient for use when tabulating write-in votes.*

ITEM 13. Amend subrule **22.261(20)** by rescinding paragraph "c" and adopting the following **new** paragraph in lieu thereof:

c. Preelection testing. Each AutoMARK VAT shall be tested thoroughly before each election in which it will be used. The commissioner may use the AutoMARK VAT to prepare some ballots for test decks required by 721—22.42(52). In addition, the commissioner shall:

(1) Perform the test ballot print, then review the ballot to be sure that all ovals are darkened and the appropriate names are printed on each line.

(2) Calibrate the touchscreen.

(3) Test all functions and select, then deselect each voting position in each race.

(4) Verify that overvote and undervote functions are programmed correctly.

(5) Test the write-in function for each office on one ballot, and test all of the letters in the alphabet.

(6) Using the audio ballot function, use each function to mark one ballot.

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(7) Tabulate the marked ballots from this test on the appropriate Model 100 or Model 650.

(8) Ensure that the AutoMARK VAT is available for demonstration at public tests.

ITEM 14. Amend subrule **22.261(20)** by adopting the following **new** paragraph “j”:

j. If a voter or precinct election official discovers that a voter has left the AutoMARK VAT without printing the voter's ballot, the two election officials designated to assist voters shall print the ballot without reviewing the ballot or making any changes, enclose the ballot in a secrecy folder and immediately deposit the ballot in the ballot reader.

ITEM 15. Amend rule 721—22.350(52) as follows:

721—22.350(52) Election Systems & Software Model 650 models.

22.350(1) Model 650. The following ballot preparation selections are mandatory for all elections:

a. Maximum number of votes. The following description for each office shall be used: “Vote for no more than xx.” Do not include “vote for” language for public measures or judges.

b. Ballot format. The voting target shall be printed on the left side of the candidate's name and on the left side of each “yes” and “no” choice for public measures and judges. The voting target shape shall be an oval.

22.350(2) Reserved. *Model 100. The Model 100 precinct count tabulating device may be used to count absentee ballots and provisional ballots.*

ITEM 16. Amend paragraph **22.463(1)“a”** as follows:

a. The version of the iVotronic certified for use in Iowa does not include the ~~receipt~~ voter-reviewable ballot record printing option. The commissioner shall not enable ~~receipt~~ printing this option.

ITEM 17. Amend rule 721—22.464(52), catchwords, as follows:

721—22.464(52) Diebold Election Systems' AccuVote TSX DRE.

ITEM 18. Amend subrule 22.464(4) as follows:

22.464(4) AccuView Printer Module (AVPM). The commissioner may use this optional feature. Iowa law neither prohibits nor permits its use. The commissioner shall not provide to a recount board any information stored in the AVPM printer module canister.

a. No change.

b. ~~The commissioner shall enable the Use Dual Roll option. When this option is enabled, the AVPM ballot image tape will be printed separately from the official record of the zero totals report and the official election results. The AVPM ballot image tape shall be printed separately from the official record of the zero totals report and the official election results. The official reports shall document the date and time when the report is printed and the serial number of the tabulating machine.~~

c. No change.

d. Label.

(1) *The commissioner shall provide a removable label for the AVPM canister. The label shall conform to substantially the following form:*

Canister ____ of ____ [numbers to be entered after polls close]
AVPM Roll Canister for ____ Election held on ____
in ____ Precinct in ____ County, Iowa
Installed by: _____
Date: _____ Time: _____
Removed by: _____
(D) _____
(R) _____
Date: _____ Time: _____
Canister serial #: _____ Lock/Seal #: _____
Number of voters: _____

(2) *If it is necessary to replace the paper in the AVPM during the hours the polls are open on election day, two election officials, one from each party, shall replace the paper. They shall not examine the tape. The label showing when the depleted paper tape was installed shall be removed from the canister and shall be used to mark the envelope or other container used to store the paper roll. This container shall be sealed. A new label shall be applied to the canister showing who installed the new paper roll and the date and time. Each official shall sign the new label on the canister.*

d e. After the polls close on election day, the precinct election officials shall ~~seal~~ remove the paper roll from each canister containing ballot images recorded during the election by following the procedure described in paragraph “d,” above. ~~The canisters sealed paper rolls~~ shall be stored for 22 months after federal elections and for 6 months after all other elections. After the retention period has passed, the tapes shall be destroyed without opening the envelope or other container.

ITEM 19. Amend subrule 26.2(4) as follows:

26.2(4) Voting machines. Votes shall be counted following the standards in Part IV. If a voter leaves the voting booth without casting the ballot, the precinct election officials shall cast the ballot without examining the face of the machine. Emergency paper ballots shall be counted following the standards in Part III. The standards in Part IV apply to the Iowa-certified versions of the following voting systems:

- MicroVote.
- Election Systems & Software iVotronic.
- Fidlar Doubleday EV2000.
- Sequoia Pacific Automatic Voting Machine.
- Sequoia Pacific Automatic Voting Computer.
- Diebold Election Systems TSX.

ITEM 20. Amend subrule 26.105(2), catchwords, as follows:

26.105(2) Tabulation Optical scan tabulation duties.

ITEM 21. Adopt the following **new** subrule:

26.105(3) DRE voting machine tabulation duties. Working with one precinct at a time, the designated members of the commissioner's staff shall print the ballot images from the DRE voting machine internal audit log. The ballot image report from each precinct shall be sealed in the same manner as voted ballots at the conclusion of the recount.

[Filed Emergency After Notice 10/4/06, effective 10/4/06]

[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5485B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby amends Chapter 25, "Information Technology Operational Standards," Iowa Administrative Code.

The Iowa Technology Governance Board in conjunction with the Department of Administrative Services develops and adopts information technology operational standards. The new rule establishes the process for approval and adoption of technical operational standards and provides for a public comment period.

The new rule applies to all participating agencies as defined in Chapter 25.

Notice of Intended Action was published in the August 30, 2006, Iowa Administrative Bulletin as **ARC 5338B**. No comments were received from the public, and no one participated at the public hearing on September 19, 2006. The adopted new rule is identical to that published under Notice.

This rule will become effective on November 29, 2006.

This rule is intended to implement Iowa Code section 8A.104.

The following amendment is adopted.

Adopt the following new rule:

11—25.9(8A) Adoption of enterprise operational standards. Information technology operational standards shall be approved by the technology governance board (board). Once approved, standards shall be posted for public comment for ten days on the department of administrative services, information technology enterprise standards Web site pursuant to rule 11—25.7(8A). All comments shall be provided to the board. The board shall determine if an operational standard should be adopted as originally written or be modified as a result of public comment. Modified standards shall be returned to the board for final approval before adoption.

Operational standards approved by the board shall be adopted by posting on the department of administrative services, information technology enterprise standards Web site and notifying affected agencies of the standard and the effective date.

[Filed 10/4/06, effective 11/29/06]

[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5484B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby amends Chapter 25, "Information Technology Operational Standards," Iowa Administrative Code.

The Iowa Technology Governance Board in conjunction with the Department is to develop and adopt information technology standards. The new rule provides for assessment and enforcement of standards for maintaining security, ensuring the integrity of the state's information resources and preventing the disclosure of confidential records. Threats to security and the effectiveness of security protection measures are rapidly changing. To avoid unintended consequences or ineffective standards, compliance with the adopted standards is essential. The new rule provides for a state chief information security officer within the Department to assess compliance with security standards and to seek enforcement recommendations from the Technology Governance Board for action by the Director.

New rule 11—25.11(8A) allows agencies to request additional time to comply with adopted security operational standards or to request a variance in the implementation of a standard. The new rule establishes authority for the chief information security officer to assess compliance with security operational standards and procedures for enforcing noncompliance. The new rule applies to all participating agencies as defined in Chapter 25.

Notice of Intended Action was published in the August 30, 2006, Iowa Administrative Bulletin as **ARC 5339B**. No comments were received from the public, and no one participated at the public hearing on September 19, 2006. The adopted new rule is identical to that published under Notice.

This rule will become effective on November 29, 2006.

This rule is intended to implement Iowa Code section 8A.104.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this rule [25.11] is being omitted. This rule is identical to that published under Notice as **ARC 5339B**, IAB 8/30/06.

[Filed 10/4/06, effective 11/29/06]

[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5487B**BANKING DIVISION[187]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 527.211, the Banking Division of the Commerce Department hereby amends Chapter 10, "Electronic Transfer of Funds," Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5356B**. No public comment was received on the rules. These rules are identical to the rules published under Notice of Intended Action.

The Superintendent of Banking adopted these amendments on October 4, 2006.

These amendments will become effective on November 29, 2006.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.211.

BANKING DIVISION[187](cont'd)

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [10.2, 10.4(3), 10.4(3)"b"(4) and (5)] is being omitted. These amendments are identical to those published under Notice as **ARC 5356B**, IAB 8/30/06.

[Filed 10/4/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5462B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 37, "Student Loan Debt Collection," Iowa Administrative Code.

The adopted amendments ensure that the Commission's rules are in alignment with changes in federal law which were recently made effective by the U.S. Congress. The amendments also include tax offset language from Chapter 10, "Federal Family Education Loan Programs," which is more appropriate in this chapter.

Notice of Intended Action was published in the July 5, 2006, Iowa Administrative Bulletin as **ARC 5224B**. These amendments were also Adopted and Filed Emergency as **ARC 5225B** on the same date. The adopted amendments are identical to those published under Notice and Adopted and Filed Emergency.

These amendments were adopted during the September 21, 2006, meeting of the Iowa College Student Aid Commission.

These amendments will become effective on November 29, 2006, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 37] is being omitted. These amendments are identical to those published under Notice as **ARC 5224B** and Adopted and Filed Emergency as **ARC 5225B**, IAB 7/5/06.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5488B

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 527.11, the Division of Credit Unions of the Commerce Department hereby amends Chapter 24, "Electronic Transfer of Funds," Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5347B**. No comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.11.

These amendments will become effective on November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [24.2, 24.4(3), 24.4(3)"b"(4) and (5)] is being omitted. These amendments are identical to those published under Notice as **ARC 5347B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5472B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 1, "Iowa Ethics and Campaign Disclosure Board," and Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code.

The amendments reflect statutory amendments enacted by the 2006 General Assembly, remove unnecessary rules, and combine other rules. The amendments also rewrite the current prohibition on the use of information on statements and reports filed with the Board and move the prohibition concerning public records from Chapter 1 to Chapter 2.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5271B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on September 20, 2006.

These amendments are intended to implement Iowa Code section 68B.32 as amended by 2006 Iowa Acts, House File 2512, section 1, and Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, sections 2, 3, and 4.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

These amendments will become effective on November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.1, 1.4 to 1.7, 2.18] is being omitted. These amendments are identical to those published under Notice as **ARC 5271B**, IAB 8/2/06.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5474B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment corrects a citation to a recently renumbered rule.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5270B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code section 68A.402B.

This amendment will become effective on November 29, 2006.

The following amendment is adopted.

Amend subrule 4.21(5) as follows:

4.21(5) A committee that files a final disclosure report shall comply with the requirements of subrule 4.54(3) 4.55(5) concerning the filing of a final bank statement.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5475B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure

Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The campaign laws permit a candidate to use campaign funds to purchase tickets to a meal so long as the candidate's sole purpose in attending the event is to enhance the candidacy of any person. The Board's current rule places a \$25 cap on the cost of a ticket for the candidate and another \$25 for one guest. The Board believes this cap is not supported by the wording of the statute and the amendment lifts the cap.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5276B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code sections 68A.301, 68A.302, and 68A.303.

This amendment will become effective on November 29, 2006.

The following amendment is adopted.

Rescind subrule **4.25(1)**, paragraph "**h**," and adopt the following **new** paragraph in lieu thereof:

h. The purchase of tickets to a meal for the candidate and one guest so long as the attendance at the meal by the candidate and guest is for the sole purpose of enhancing the candidacy of any person.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5476B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment reflects current Board policies concerning the resolution of published political material that does not contain a "paid for by" attribution.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5278B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code section 68A.405 and Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

This amendment will become effective on November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [4.41] is being omitted. This amendment is identical to that published under Notice as **ARC 5278B**, IAB 8/2/06.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5478B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The Board's current rules assess a civil penalty, subject to appeal, against a permanent organization that fails to file Form DR-OTC within ten days of making a contribution in excess of \$750. The amendment establishes a procedure stipulating that, if the contribution is the first that a permanent organization has ever made, a penalty will be assessed if Form DR-OTC is not filed within ten days of notice by the Board. The permanent organization must disclose any subsequent contribution within ten days of making the contribution; otherwise the permanent organization will be assessed a civil penalty.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5277B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

This amendment will become effective on November 29, 2006.

The following amendment is adopted.

Rescind subrule 4.59(8) and adopt the following **new** subrule in lieu thereof:

4.59(8) Form DR-OTC assessment. A permanent organization that has not previously made a contribution in excess of \$750 and that fails to file Form DR-OTC within ten days of notice to do so by the board shall be assessed a \$20 civil penalty. A permanent organization that has previously made a contribution in excess of \$750 and that fails to file Form DR-OTC within ten days of the date on which the contribution check is issued shall be assessed a \$20 civil penalty.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5479B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 5, "Use of Public Resources for a Political Purpose," Iowa Administrative Code.

The amendment reflects current Board policy of notifying the regulated community and the public that certain statutes outside of the Board's jurisdiction prohibit persons who hold certain government positions from engaging in political activities. The Board often receives questions or complaints concerning these statutes, and this notification will assist the public and the regulated community.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5268B**. No oral or written comments on the amendment were received. One grammatical change has been made.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code section 68A.505.

This amendment will become effective on November 29, 2006.

The following amendment is adopted.

Adopt **new** rule 351—5.8(68A) as follows:

351—5.8(68A) Holders of certain government positions prohibited from engaging in political activities. Several statutes outside of the board's jurisdiction prohibit the holders of certain government positions from being engaged in political activities. The board does not enforce these statutory prohibitions. However, to assist the regulated community and the public, the board will maintain on its Web site at <http://www.state.ia.us/ethics/index.htm> a list of positions whose holders are prohibited from engaging in political activities.

This rule is intended to implement Iowa Code section 68A.505.

[Filed 9/25/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5480B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The amendment reflects the statutory amendment enacted by the 2006 General Assembly that adds "lease" to the re-

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

quirement that an official or employee of a regulatory agency obtain consent prior to selling goods or services subject to the regulatory authority of the official's or employee's agency. The amendment also reflects the Board's policy of permitting a regulatory agency to file a blanket consent to cover a class of sales or leases.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5269B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2.

This amendment will become effective on November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [6.11] is being omitted. This amendment is identical to that published under Notice as **ARC 5269B**, IAB 8/2/06.

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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5471B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The amendment reflects the statutory amendment enacted by the 2006 General Assembly that adds "leases" to the prohibition on a member of the Governor's Office from selling goods or services to a lobbyist or a person that employs a lobbyist without complying with the proper procedure and obtaining consent. The amendment also includes a blanket consent provision to permit the Governor's Office to approve a class of sales or leases.

The amendment was published under Notice of Intended Action on August 2, 2006, as **ARC 5266B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3.

This amendment will become effective on November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

this amendment [6.12] is being omitted. This amendment is identical to that published under Notice as **ARC 5266B**, IAB 8/2/06.

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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5461B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A as amended by 2006 Iowa Acts, House File 2512, section 2, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

The amendment reflects the statutory amendment by the 2006 General Assembly that directs the Board to impose discipline for violations of Iowa Code Supplement section 8.7.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5267B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on September 20, 2006.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

This amendment will become effective on November 29, 2006.

The following amendment is adopted.

Amend rule 351—9.3(68B) as follows:

351—9.3(68B) Grounds for disciplinary action. The board may impose discipline against a person subject to the board's jurisdiction who commits a violation of Iowa Code Supplement chapter 68A, or Iowa Code chapter 68B, *Iowa Code Supplement section 8.7*, or rules adopted under either chapter by the board.

This rule is intended to implement Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

[Filed 9/25/06, effective 11/29/06]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5490B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Insurance Division hereby amends Chapter 3, "Contested Cases," Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

The rules in Chapter 3 apply to contested case proceedings conducted by the Iowa Insurance Division. The amendments to the rules update and clarify the procedures followed by the Division. Insurance companies and producers shall comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5365B**. A public hearing was held on September 19, 2006, at 2 p.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

Some written comments and suggestions regarding the proposed amendments were received by the Division. Based on the suggestions, subrule 3.8(2) has been changed for clarification.

The subrule reads as follows:

“3.8(2) The presiding officer may, on the officer’s own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. Any party may call witnesses by telephone, with 14 days’ advance notice to all parties and the presiding officer. Failure of a party to make timely disclosure may result in the disallowance of testimony by telephone.”

These amendments are intended to implement Iowa Code chapter 17A.

These amendments will become effective November 29, 2006.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [3.5(5), 3.6(4), 3.8(2), 3.12(2), 3.12(6), 3.26(4)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5365B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5498B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 10, “Licensing of Insurance Producers,” Iowa Administrative Code.

The rules in Chapter 10 set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers. The amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners (NAIC). Insurance companies and producers shall comply with the rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5361B**. A public hearing was held on September 19, 2006, at 2 p.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

Some written comments and suggestions regarding the proposed amendments were received by the Division. Based on the suggestions, some technical changes have been made

to subrule 10.8(5) in Item 8; subrule 10.9(2) in Item 9; and subrule 10.15(2) in Item 15; and new rule 191—10.25(522B) has been added as Item 23.

Subrules 10.8(5), 10.9(2) and 10.15(2) and rule 191—10.25(522B) read as follows:

“10.8(5) Nonresident insurance producer licenses may be renewed only through the NIPR Gateway, or as otherwise directed by the division.”

“10.9(2) A nonresident producer may reinstate an expired license up to 12 months after the expiration date by submitting a request through the NIPR Gateway and by paying a reinstatement fee and license renewal fee. After the 12-month period, a nonresident producer must apply for a new license.”

“10.15(2) Appointments must be filed using the NIPR Gateway, except that insurers authorized under Iowa Code chapter 518 or 518A shall file appointments directly with the division by arrangement with the division.”

“191—10.25(522B) Insurer duties regarding federal flood insurance. An insurer authorized to do business in Iowa shall demonstrate to the division, upon the division’s request, that producers appointed by the insurer have complied with all continuing education guidelines as established by the National Flood Insurance Program (NFIP).”

These amendments are intended to implement Iowa Code chapter 522B.

These amendments will become effective November 29, 2006.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [10.1 to 10.25] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5361B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]
[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5499B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 11, “Continuing Education for Insurance Producers,” Iowa Administrative Code.

The rules in Chapter 11 set out the continuing education requirements for insurance producers. The amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners. Insurance companies and producers shall comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5366B**. A public hearing was held on September 19, 2006, at 2 p.m. at the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

Some written comments and suggestions regarding the proposed amendments were received by the Division. Based on the suggestions, some technical changes have been made.

INSURANCE DIVISION[191](cont'd)

Proposed subrule 11.3(9) has not been adopted, and subrule 11.3(10) has been renumbered as 11.3(9). The substance of proposed subrule 11.3(9) has been incorporated into new rule 191—10.25(522B) (see **ARC 5498B** herein).

These amendments are intended to implement Iowa Code chapters 505 and 522B.

These amendments will become effective November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [11.1 to 11.14] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5366B**, IAB 8/30/06.

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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5492B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," Iowa Administrative Code.

The rules in Chapter 20 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The amendments to the rules set forth changes to the procedures to make the filing and approval process more efficient. Insurance companies and producers shall comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5363B**. A public hearing was held on September 20, 2006, at 9 a.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319. No comments or suggestions were received by the Division regarding the proposed amendments.

One change has been made since the Notice of Intended Action was published. Because the forms that appear at the end of Chapter 20 either will no longer be used or will be included within the instructions provided by the Division on its Web site, an item has been added to direct the removal of the following forms: (1) Filing Synopsis; (2) Insurer Rate Filing—Adoption of Advisory Organization Prospective Loss Costs Summary of Supporting Information Form; (3) Expense Constant Supplement; and (4) Insurer Rate Filing Adoption of Advisory Organization Prospective Loss Costs—Reference Filing Adoption Form.

These amendments are intended to implement Iowa Code chapters 515, 515A, 515C, 518, and 518A.

These amendments will become effective November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [20.1 to 20.4] is being omitted. With the exception of the change noted above, these amendments are

identical to those published under Notice as **ARC 5363B**, IAB 8/30/06.

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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5495B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 30, "Life Insurance Policies," Iowa Administrative Code.

The rules in Chapter 30 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The amendment to the rules sets forth changes to the procedures to make the filing and approval process more efficient. Insurance companies and producers shall comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5364B**. A public hearing was held on September 20, 2006, at 9 a.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319. No comments or suggestions were received by the Division regarding the proposed amendments. No changes have been made to the Notice.

This amendment is intended to implement Iowa Code chapter 508.

This amendment will become effective November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [30.5] is being omitted. This amendment is identical to the one published under Notice as **ARC 5364B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]
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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5497B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 35, "Accident and Health Insurance," Iowa Administrative Code.

The rules in Chapter 35 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The amendment to the rules sets forth changes to the procedures to make the filing and approval process more efficient. Insurance companies and producers will comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5362B**. A

INSURANCE DIVISION[191](cont'd)

public hearing was held on September 20, 2006, at 9 a.m. at the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319. No comments or suggestions were received by the Division regarding the proposed amendments. No changes have been made to the Notice.

This amendment is intended to implement Iowa Code chapter 509.

This amendment will become effective November 29, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [35.7] is being omitted. This amendment is identical to the one published under Notice as **ARC 5362B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]
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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5504B

PAROLE BOARD[205]

Adopted and Filed

Pursuant to the authority of Iowa Code section 906.3, the Board of Parole hereby amends Chapter 11, "Parole Revocation," Iowa Administrative Code.

This amendment adds language to clarify that a voluntary termination of parole shall be reviewed by an administrative parole judge, and that the authority to determine incarceration before return of the parolee to the Iowa Medical and Classification Center rests with the administrative parole judge and not the parole officer.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5297B**. The Board received no public comments on the proposed amendment. The adopted amendment is identical to the one published under Notice.

The amendment was adopted during the Board's October 5, 2006, meeting.

This amendment will become effective November 29, 2006.

This amendment is intended to implement Iowa Code section 906.3.

The following amendment is adopted.

Amend rule 205—11.1(906) as follows:

205—11.1(906) Voluntary termination of parole. Any voluntary termination of parole should be executed in writing by the parolee ~~and approved~~, *reviewed* by the parole officer, *and approved by an administrative parole judge*. Upon the execution of the voluntary termination of parole, the parolee's parole is terminated and the parolee shall be returned to the Iowa Medical and Classification Center at Oakdale as soon as reasonably possible. ~~The parole officer shall~~ *The administrative parole judge shall, after consultation with the parole officer,* determine if the parolee shall be incarcerated prior to the parolee's return to the Iowa Medical and Classification Center. ~~and The parole officer shall make arrangements accordingly.~~ The parolee shall receive credit for the time spent on

parole prior to the voluntary termination of parole *as determined by the administrative parole judge*.

[Filed 10/6/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5503B

PAROLE BOARD[205]

Adopted and Filed

Pursuant to the authority of Iowa Code section 906.3, the Board of Parole hereby amends Chapter 11, "Parole Revocation," Iowa Administrative Code.

This amendment adds new rule 205—11.2(908), which states that inmates placed on "day reporting" status by the Department of Corrections shall be afforded the same procedural rights as parolees. This rule is intended to comply with the U.S. Supreme Court holding in *Young v. Harper*, 520 U.S. 143 (1997). In *Young* the court held that inmates released through programs which are substantially similar to parole are entitled to the same procedural safeguards as parolees when the inmates face revocation of release status.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5296B**. The Board received no public comments on the proposed amendment. The adopted amendment is identical to the one published under Notice.

The amendment was adopted during the Board's October 5, 2006, meeting.

This amendment will become effective November 29, 2006.

This amendment is intended to implement Iowa Code section 906.3.

The following amendment is adopted.

Adopt the following new rule:

205—11.2(908) Work release day reporting revocation. When a work release day reporting inmate is subject to revocation of day reporting status, the work release day reporting inmate shall be entitled to all procedural protections afforded parolees pursuant to Iowa Code sections 908.3 to 908.7 and rules 205—11.3(908) to 205—11.11(908).

[Filed 10/6/06, effective 11/29/06]
[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5505B

PAROLE BOARD[205]

Adopted and Filed

Pursuant to the authority of Iowa Code section 906.3, the Board of Parole hereby amends Chapter 11, "Parole Revocation," Iowa Administrative Code.

PAROLE BOARD[205](cont'd)

This amendment adds “aggravated misdemeanor” as a type of offense subject to a recommendation for an automatic revocation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5298B**. The Board received no public comments on the proposed amendment. The adopted amendment is identical to the one published under Notice.

The amendment was adopted during the Board’s October 5, 2006, meeting.

This amendment will become effective November 29, 2006.

This amendment is intended to implement Iowa Code section 908.10A.

The following amendment is adopted.

Amend paragraph **11.6(2)“f”** as follows:

f. Automatic revocation. This recommendation may be used when a parolee has been convicted of and sentenced for a new felony: *committed while on parole or when the parolee is convicted and sentenced to incarceration in a state correctional institution for an aggravated misdemeanor committed while on parole.*

[Filed 10/6/06, effective 11/29/06]

[Published 10/25/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5500B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 303, “State Building Code—Requirements for Energy Conservation in Construction,” Iowa Administrative Code.

Iowa Code sections 103A.8A and 103A.10 require the Building Code Commissioner to establish requirements for energy conservation in residential and nonresidential construction, respectively. These standards had not been updated for several years before the nonresidential energy conservation requirements were amended as part of a general updating of the State Building Code, which took effect on April 1, 2006. At that time, the requirements for energy conservation in residential construction were not updated because the underlying statute (Iowa Code section 103A.8A) required that the requirements be stated in terms of the “home heating index developed by the physics department at Iowa state university of science and technology,” which made conversion to a current nationally recognized code impractical. In the adoption which was effective April 1, 2006, the requirements for energy conservation in nonresidential construction in Iowa were updated to the 2004 Supplement of the International Energy Conservation Code.

The amendments adopted herein update the energy conservation requirements for both residential and nonresidential construction to the 2006 edition of the International Energy Conservation Code (IECC). Updating energy conservation requirements for all construction to the same edition of the IECC should simplify understanding of these require-

ments and, consequently, should enhance compliance with the requirements. The rules amend the IECC to coordinate with the remainder of the State Building Code by deleting administrative provisions, which are covered in 661—Chapter 300.

These amendments were proposed in a Notice of Intended Action which was published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5185B**. A public hearing on the proposed amendments was held on August 15, 2006. Various comments were received regarding possible amendments to the proposed adoption of the International Energy Conservation Code, although no adverse comment was received regarding adoption of the IECC itself. The Building Code Commissioner and the Building Code Advisory Council determined that only limited amendments to the IECC should be included in the adopted rules. One such amendment, which represents a change from the proposed rules, adds language to the requirements for energy conservation in residential construction, clarifying the meaning of “sealed” in air handling systems. Another amendment restores a section of the IECC originally proposed to be deleted, section 102, which deals with materials, systems, and equipment. The Building Code Commissioner received several comments regarding section 102, indicating that its inclusion in the adopted rules would be beneficial in clarifying the requirements of the IECC.

These amendments will become effective on January 1, 2007.

These amendments are intended to implement Iowa Code sections 103A.8A and 103A.10.

The following amendments are adopted.

ITEM 1. Rescind rule 661—303.2(103A) and adopt in lieu thereof the following **new** rule:

661—303.2(103A) Residential energy code. The International Energy Conservation Code, 2006 edition, is adopted by reference as the residential energy code of the state of Iowa building code, applicable to low-rise residential construction throughout the state of Iowa on or after January 1, 2007, with the following amendments:

1. Delete sections 101, 103, 104, 105, and 106, and all sections contained within each of these.

2. Amend section 403.2.2 as follows:

403.2.2 Sealing. All ducts, air handlers, filter boxes, and building cavities used as ducts shall be sealed. Joints and seams shall comply with Section M1601.3.1 of the International Residential Code. *Air handlers with a manufacturer’s designation for an air leakage of no more than 2 percent of the design air flow rate when tested at an air pressure of 1-inch water gauge when all air inlets, air outlets, and condensate drain port(s) are sealed shall be deemed sealed. Air handlers with filter boxes shall be tested with the filter box in place.*

3. Delete chapter 5.

EXCEPTION: Residential construction which begins prior to April 1, 2007, may comply with rule 661—303.2(103A) as it read prior to January 1, 2007.

ITEM 2. Amend rule 661—303.3(103A) as follows:

661—303.3(103A) Adoption of nonresidential energy code. The International Energy Conservation Code, 2004 supplement 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, is hereby adopted by reference as the nonresidential energy code of the state building code, applicable to non-residential or high-rise residential construction within the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

state of Iowa on or after ~~April 1, 2006~~, *January 1, 2007*, with the following amendments:

~~Delete chapter 4.~~

1. Delete sections 101, 103, 104, 105, and 106, and all sections contained within each of these.

~~Amend the referenced standards under ASHRAE as follows:~~

~~Delete “90.1-2001” and insert in lieu thereof “90.1-2004.”~~

2. Delete chapter 4.

EXCEPTION: Nonresidential construction which begins prior to April 1, 2007, may comply with rule 661—303.3(103A) as it read prior to January 1, 2007.

[Filed 10/5/06, effective 1/1/07]

[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5494B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, “Adjustments to Computed Tax,” and Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 5, p. 292, on August 30, 2006, as **ARC 5360B**.

Item 1 amends rule 701—42.16(422) to provide that the ethanol blended gasoline tax credit for individual income tax may be claimed even if a taxpayer also claims the E-85 gasoline promotion tax credit.

Item 2 amends subrule 42.16(1) to update the definitions applicable to the ethanol blended gasoline tax credit for individual income tax.

Item 3 adopts new subrule 42.16(3) to provide that the ethanol blended gasoline tax credit for individual income tax is repealed on January 1, 2009, and to update the implementation clause for rule 701—42.16(422).

Item 4 adopts new rule 701—42.31(422) to provide for the E-85 gasoline promotion tax credit for individual income tax.

Item 5 adopts new rule 701—42.32(422) to provide for the biodiesel blended fuel tax credit for individual income tax.

Item 6 amends rule 701—52.19(422) to provide that the ethanol blended gasoline tax credit for corporation income tax may be claimed even if a taxpayer also claims the E-85 gasoline promotion tax credit. This is similar to the change in Item 1.

Item 7 amends subrule 52.19(1) to update the definitions applicable to the ethanol blended gasoline tax credit for corporation income tax. This is similar to the change in Item 2.

Item 8 adopts new subrule 52.19(3) to provide that the ethanol blended gasoline tax credit for corporation income tax is repealed on January 1, 2009, and to update the implementation clause for rule 701—52.19(422). This is similar to the change in Item 3.

Item 9 adopts new rule 701—52.30(422) to provide for the E-85 gasoline promotion tax credit for corporation income tax. This is similar to the change in Item 4.

Item 10 adopts new rule 701—52.31(422) to provide for the biodiesel blended fuel tax credit for corporation income tax. This is similar to the change in Item 5.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective November 29, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2006 Iowa Acts, House Files 2754 and 2759.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [42.16, 42.16(1), 42.16(3), 42.31, 42.32, 52.19, 52.19(1), 52.19(3), 52.30, 52.31] is being omitted. These amendments are identical to those published under Notice as **ARC 5360B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]

[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5493B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, “Adjustments to Computed Tax,” and Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 5, p. 298, on August 30, 2006, as **ARC 5357B**.

Item 1 adopts new rule 701—42.33(422) to provide for an individual income tax credit for costs incurred by an electric utility for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

Item 2 adopts new rule 701—52.32(422) to provide for a corporation income tax credit for costs incurred by an electric utility for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

These rules are identical to those published under Notice of Intended Action.

These rules will become effective November 29, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement 2006 Iowa Acts, Senate File 2402.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [42.33, 52.32] is being omitted. These rules are identical to those published under Notice as **ARC 5357B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]

[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5491B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and sections 421.14, 425.8, 426A.7, and 437A.25, the Department of Revenue hereby adopts amendments to Chapter 70, "Replacement Tax and Statewide Property Tax," Chapter 71, "Assessment Practices and Equalization," and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX, No. 5, p. 299, on August 30, 2006, as **ARC 5358B**.

The amendments allow a reimbursement of replacement tax paid to electric utilities for the costs incurred in the transition from using nonsoy-based transformer fluid to soy-based transformer fluid; require the appellant to notify the board of review or the property assessment appeal board if either board's decision is protested to district court; require that members of the property assessment appeal board be state employees; require the assessor to notify the school district if a protest is filed against an assessment of property valued at \$5 million or more; allow a homestead property tax credit to the owner of a home if the land is owned by a community land trust and the homeowner is a member of the community land trust; change from three years to 18 months the time period that a veteran must have served in the armed forces to be eligible for the military service property tax exemption; list the materials that may be used for a property tax exemption to be allowed on property used for recycling purposes; permit vacant units in low-rent housing projects owned by nonprofit organizations recognized as such by the Internal Revenue Service and property under construction by such organizations to qualify for a property tax exemption; allow a tax exemption on apartment buildings owned by a 501(c)(3) nonprofit community development organization in cities with a population of more than 110,000; require that all property owners in an annexed area receive a tax exemption if the city council has elected to grant an exemption in the area; exempt from taxation machinery, equipment, and fixtures at concrete batch plants and hot mix asphalt facilities; exempt from taxation airport property owned by a city or county and leased to an operator providing aeronautical services to the public; and exempt car wash equipment from taxation.

The following changes have been made to the Notice of Intended Action because 2006 legislation that changed the time period for district court appeal notification had been overlooked. First, amendments to subrule 71.20(4), paragraph "c," subparagraph (4), and to the implementation clause for rule 701—71.20(441) have been added. In addition, proposed new paragraph "h" of subrule 71.21(2) has been revised.

Subrule 71.20(4), paragraph "c," subparagraph (4), reads as follows:

"(4) That the board of review's decision may be appealed to the district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the

date will be no earlier than May 31. Notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review after the written notice of appeal has been filed with the clerk of district court."

Rule 701—71.20(441), implementation clause, reads as follows:

"This rule is intended to implement Iowa Code sections 441.31 to 441.37 and Iowa Code Supplement section 441.38 as amended by 2006 Iowa Acts, House File 2794."

Subrule 71.21(2), paragraph "h," reads as follows:

"h. If an appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the board after the written notice of appeal has been filed with the clerk of district court."

These amendments will become effective November 29, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

With the exception of Item 13, these amendments are intended to implement 2006 Iowa Acts, Senate Files 2391 and 2402, and House Files 2633, 2751, 2792, 2794, and 2797. Item 13 establishes a policy regarding tax exemptions for vacant units in low-rent housing projects.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 70, 71, 80] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5358B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]

[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5486B**SAVINGS AND LOAN DIVISION[197]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 527.211, the Savings and Loan Division of the Commerce Department hereby amends Chapter 14, "Electronic Transfer of Funds," Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5355B**. No public comment was received on the rules. These rules are identical to the rules published in the Notice of Intended Action.

The Superintendent of Banking adopted these amendments on October 4, 2006.

These amendments will become effective on November 29, 2006.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.211.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [14.2, 14.4(3), 14.4(3)"b"(4) and (5), 14.5(1), 14.6] is being omitted. These amendments are iden-

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tical to those published under Notice as **ARC 5355B**, IAB 8/30/06.

[Filed 10/4/06, effective 11/29/06]
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[For replacement pages for IAC, see IAC Supplement 10/25/06.]

ARC 5502B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. Section 214(e), the Utilities Board gives notice that on October 6, 2006, the Board issued an order in Docket No. RMU-06-1, In re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers [199 IAC 39], "Order Adopting Amendments and Scheduling Workshops." The Board adopted amendments to 199 IAC 39 establishing new eligibility, certification, and reporting requirements for telecommunications carriers seeking to be designated as eligible telecommunications carriers (ETCs). The Board also adopted minor changes to its rules at 199 IAC 1 and 199 IAC 22 to reflect changes made to 199 IAC 39.

The order adopted amendments, with revisions, which were published under Notice of Intended Action in IAB Vol. XXVIII, No. 19 (3/15/06) p. 1395, as **ARC 4977B**. Written comments were submitted to the Board by 11 participants on or before April 4, 2006. On April 20, 2006, the Board accepted comments filed on April 17, 2006, from another carrier. Written comments were received from Iowa Wireless Services, Iowa Telecommunications Association, Iowa RSA Nos. 7, 8, and 10, Iowa Wireless Coalition, Qwest Corporation, Rural Iowa Independent Telephone Association, Sprint Nextel Corporation, T-Mobile Central, U.S. Cellular Corporation, Verizon Wireless, Cingular Wireless PCS, LLC, and the Consumer Advocate Division of the Department of Justice.

A public hearing was held on April 26, 2006, at which all but one of the participants that filed written comments were represented.

The Board made certain changes to the rules based on the written comments and on comments made at hearing. Major changes include clarifying how the new eligibility, certification, and reporting requirements will apply to previously designated ETCs; omitting a requirement that wireless carriers submit maps showing the location of towers and replacing it with a requirement that wireless carriers submit maps depicting signal strength; requiring reports explaining how expenditures benefit specific wire centers in an ETC's designated service area rather than requiring reports on a wire center basis; adopting new reporting cycles and deadlines to allow ETCs sufficient time to gather and report the required information; acknowledging that maintenance can be an appropriate use of universal service funds; and clarifying what will be required in network improvement and maintenance plans, extensions, and progress reports. The changes are explained in greater detail in the Board's order adopting the amendments, which can be found on the Board's Web site, www.state.ia.us/iub.

The amendments will become effective November 29, 2006.

The amendments are intended to implement Iowa Code section 476.2 and 47 U.S.C. Sections 214(e) and 254.

The following amendments are adopted.

ITEM 1. Amend paragraph **1.9(5)“c”** as follows:

c. Materials exempted pursuant to requests deemed granted by the board. Requests ~~that to withhold from public inspection material or information be withheld from public inspection that contain~~ *contains* negotiated transportation rates and prices for natural gas supply, reservation charges for portfolio gas supply contracts, and terms and prices for all hedging activity including both financial hedges and weather-related information included in monthly purchased gas adjustment filings, annual purchase gas adjustment filings, annual purchased gas adjustment reconciliations, periodic filings related to changes in purchased gas adjustment factors, negotiated purchase prices for electric power, fuel, and transportation, customer-specific information, power supply bills in support of energy adjustment clause filings, *network improvement and maintenance plans and related extensions and progress reports, wireless coverage area maps, service outage reports filed with the board pursuant to 199 IAC 39.5(5), or the financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service shall be deemed granted pursuant to Iowa Code section 22.7(3), as a trade secret, or pursuant to Iowa Code section 22.7(6), as a report to a government agency which, if released, would benefit competitors and would serve no public purpose, or pursuant to both sections, provided that the confidential portions of the filings are identified and segregated and an attorney for the company or a corporate officer avers that those portions satisfy Iowa Code section 22.7(3) or 22.7(6), or both, as interpreted by the Iowa Supreme Court. The information shall be held confidential by the board upon filing and will be subject to the provisions of 199 IAC 1.9(8)“b”(3).*

ITEM 2. Rescind subrule **22.2(7)**.

ITEM 3. Amend subrule **39.2(3)** by adding **new** paragraphs **“c”** through **“f”** as follows:

c. Submit an explanation of how the carrier will provide each of the supported services listed in 39.2(1).

d. Submit a description, including a detailed map or maps, of the area or areas for which ETC designation is sought. Commercial mobile radio service (CMRS) providers, as defined in 47 CFR Parts 20 and 24, shall file coverage area maps that depict signal strength.

e. Submit a network improvement and maintenance plan associated with the provision of universal supported services. An ETC applicant shall submit a two-year plan specifically describing its proposed network improvements, upgrades, and maintenance for its proposed designated service area. The plan must demonstrate in detail how high-cost support will be used for service improvements or maintenance that would not occur absent support. The plan must demonstrate: (1) how signal quality, coverage, or capacity will improve in the designated area due to receipt of high-cost support; (2) the projected start date and completion date for each improvement, including the estimated amount of investment per project funded by high-cost support; (3) the specific geographic areas where improvements will be made; and (4) the estimated population that will be served as a result of the improvements. This information shall identify the benefits to specific wire centers in the carrier's proposed designated service area. Carriers that are not requesting high-cost support shall indicate this in their applications. Carriers that are not

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seeking or receiving high-cost support are not required to file network improvement and maintenance plans, nor are they required to file annual extensions and progress reports.

f. Demonstrate compliance with applicable consumer protection standards. Wireline ETC applicants shall commit to complying with the consumer protection rules set out in 199—Chapters 6 and 22. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Provide disclosure rates and terms of service to consumers. For each rate plan offered to new consumers, wireless carriers shall make available to consumers in collateral or other disclosures at point of sale and on their Web sites, at a minimum, the following information, as applicable:

1. The calling area for the plan;
2. The monthly access fee or base charge;
3. The number of airtime minutes included in the plan;
4. Any night and weekend minutes included in the plan or other differing charges for different time periods and the time periods when night and weekend minutes or other charges apply;
5. The charges for excess or additional minutes;
6. Per-minute long distance charges or whether long distance is included in other rates;
7. Per-minute roaming or off-network charges;
8. Whether any additional taxes, fees or surcharges apply;
9. The amount or range of any such fees or surcharges that are collected and retained by the carrier;
10. Whether a fixed-term contract is required and, if so, its duration;
11. Any activation or initiation fee; and
12. Any early termination fee that applies and the trial period during which no early termination fee will apply.

(2) Make available maps showing where service is generally available. Wireless carriers shall make available at point of sale and on their Web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps shall be generated using generally accepted methodologies and standards to depict outdoor coverage. All such maps shall contain an appropriate legend concerning limitations and variations in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers shall periodically update such maps as necessary to keep the maps reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers shall request and incorporate roaming partners' coverage maps that are generated using similar industry-accepted criteria or, if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier shall provide or confirm the material terms and conditions of service with the customer.

(4) Allow a trial period for new service. When a customer initiates service with a wireless carrier, the customer shall be informed of and given a period of not less than 14 days to try out the service. The carrier shall not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable re-

turn and exchange policies. Other charges, including airtime usage, may still apply.

(5) Provide specific disclosure in advertising. In advertising of prices for wireless service or devices, wireless carriers shall disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows:

1. Activation or initiation fees;
2. Monthly access fees or base charges;
3. Any required contract term;
4. Early termination fees;
5. The terms and conditions related to receiving a product or service for "free";
6. The times of any peak and off-peak calling periods;
7. Whether different or additional charges apply for calls outside the carrier's network or outside designated calling areas;
8. For any rate plan advertised as "nationwide" (or using a similar term), the carrier shall have available substantiation for this claim;
9. Whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term;
10. Whether any additional taxes, fees, or surcharges apply; and
11. The amount or range of any such fees or surcharges collected and retained by the carrier.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, the carrier shall distinguish monthly charges for service and features and other charges collected and retained by the carrier from taxes, fees, and other charges collected by the carrier and remitted to federal, state, or local governments. Carriers shall not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers shall not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers shall be provided a toll-free telephone number to access a carrier's customer service department during normal business hours. Customer service contact information shall be provided to customers on line and on billing statements. Each wireless carrier shall provide information about how customers may contact the carrier in writing, by toll-free telephone number, via the Internet, or otherwise with any inquiries or complaints, and this information shall be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on carriers' Web sites. Each carrier shall also make such contact information available, upon request, to any customer calling the carrier's customer service department.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 350 Maple Street, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in

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199—Chapter 6, “Complaint Procedures,” shall be followed to enforce the minimum consumer protection standards in paragraph 39.2(3)“f.” When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless ETC shall abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws and shall make available to the public its privacy policy concerning information collected on line.

g. Demonstrate compliance with applicable service quality standards. Wireline ETC applicants shall demonstrate that they will comply with applicable service quality standards set forth in 199—Chapter 22. All ETC applicants shall commit to complying with the service quality reporting requirements set forth in 199—39.5(476).

h. Certify the ability to maintain a minimum of two hours of backup power to ensure functionality without an external power source.

i. Demonstrate a commitment to offer a local usage plan comparable to the one offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. ETC applicants shall commit to providing Lifeline and Link-Up consistent with 47 CFR 54.401 and 47 CFR 54.411.

j. File a statement that the carrier acknowledges that the FCC may require it to provide equal access if all other eligible carriers in its ETC designated service area relinquish their designations pursuant to Section 214(e) of the Telecommunications Act of 1996.

k. When the ETC applicant seeks to provide service in a rural area, demonstrate that granting ETC designation is in the public interest. The public interest analysis shall include discussion of the benefits of increased consumer choice and, if relevant, of the benefits of providing consumer choices on service offerings in rural and high-cost areas. The public interest analysis shall also include discussion of the particular advantages and disadvantages of the applicant’s offering. For example, the analysis may discuss the potential benefits of mobility that wireless carriers provide in geographically isolated areas, the potential impact on toll charges to affected consumers, and the potential for consumers to obtain services such as voicemail, numeric paging, call forwarding, three-way calling, call waiting, and other premium services comparable to those provided in urban areas. The analysis shall also address the disadvantages of dropped-call rates and poor coverage.

l. Respond to board requests for information related to the status of local voice service markets or facilities. Board requests may include requests for surveys on the number of customers using specific services, facilities, or service packages and explanations of services or service packages, pricing on services offered, carrier advertising efforts, and market trends.

ITEM 4. Adopt **new** subrule 39.2(7) as follows:

39.2(7) Previously designated ETCs. Any carrier that was designated by the board as an ETC before November 29, 2006, and that receives high-cost universal service support pursuant to applicable federal regulations governing high-

cost support shall file a statement demonstrating compliance with the requirements in 39.2(3)“d” through “j” on or before March 1, 2007. As part of this filing, each ETC shall file a network improvement and maintenance plan for a reporting period of January 1, 2007, through December 31, 2008. Each carrier shall also acknowledge that it will respond to board requests for information related to the status of local voice service markets or facilities as required by 39.2(3)“l.” A wireline ETC that has service area maps on file with the board, or that adopts such maps before November 29, 2006, does not need to refile the service area maps as would otherwise be required by 39.2(3)“d.”

ITEM 5. Amend rule 199—39.5(476) as follows:

199—39.5(476) Quality of service reporting by eligible telecommunications carriers. Carriers designated by the utilities board as eligible to receive high-cost universal service support pursuant to 47 U.S.C. § 214(e) *and that receive such support* must measure and report to the board the quality of service performance for the criteria listed below. ~~Quality of service reporting shall be provided annually in a format determined by the board. The first service quality reports on the criteria in subrules 39.5(1) through 39.5(7) shall be filed by August 1, 2007, and shall cover a reporting period of January 1 through June 30, 2007. The next service quality reports shall be filed by May 1, 2008, and shall cover a reporting period of July 1 through December 31, 2007. Beginning with the reports due on May 1, 2009, and for subsequent reports due on May 1 of each year, the reporting period shall cover the preceding calendar year.~~

1. **39.5(1)** Local usage. The amount of minutes of service provided each month, without any additional charge, as part of the ETC-eligible service. *Each ETC shall include a description of its rate plans; a definition of the calling area associated with the plans; an explanation of bundling of local and long distance services; an explanation of free calls to government agencies or other entities; and an explanation of other issues related to the rates and terms of the plans.*

2. **39.5(2)** Access to emergency services. A listing of each area in Iowa where the eligible carrier currently provides Phase I and Phase II E-911.

3. **39.5(3)** Answer time. ~~The average wait time that each customer is left on hold experienced by customers~~ when calling an eligible carrier’s ETC’s customer service center, regardless of the location ~~locations~~ from which the customer ~~customers~~ is were calling.

4. **39.5(4)** Retail locations. The number, location, hours of service, and telephone number for each carrier-owned retail location in Iowa, as well as the eligible carrier’s Web address and toll-free customer service number.

39.5(5) FCC outage reports. *Each ETC shall file with the board copies of all FCC outage reports it filed with the FCC. The copies will be filed as confidential pursuant to the provisions of 199—paragraph 1.9(5)“c.”*

39.5(6) *The number of requests for service from potential customers that were unfilled for over five days during the past year.*

39.5(7) *The number of complaints per 1000 handsets or lines. ETCs serving fewer than 1000 handsets or access lines shall report the actual number of complaints.*

39.5(8) *Extensions of network improvement and maintenance plans. On or before May 1 of each year, each ETC shall file a rolling one-year extension of its network improvement and maintenance plan. The initial rolling one-year extension shall report improvements and maintenance planned for calendar year 2009 and shall be filed by May 1, 2008.*

UTILITIES DIVISION[199](cont'd)

39.5(9) *Progress reports on network improvement and maintenance plans. On or before May 1, 2008, and each May 1 thereafter, each ETC shall file a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this subrule, "wire center" shall be defined as determined by the North American Numbering Plan Administrator.*

ITEM 6. Add new rule 199—39.6(476) as follows:

199—39.6(476) Universal service certification.

39.6(1) Certification to be filed with the board. Any carrier desiring to continue to receive federal high-cost universal service support shall file with the board no later than May 1 of each year an original and two copies of an affidavit and shall file one copy with the consumer advocate division of the department of justice.

39.6(2) Content of certification. Each affidavit shall be titled "Certification of [Company Name]." The company name shall be the same name shown on the carrier's tariff as filed with the board. If the ETC does not file tariffs with the board, the ETC shall provide the name used on its initial application for ETC designation and its current name, if its name has changed. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier will use the support the carrier receives pursuant to FCC regulations or successor regulations concerning high-cost universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier will comply with applicable service quality standards and consumer protection rules, certify that the carrier is able to maintain backup power for a minimum of two hours to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: As an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

39.6(3) Certifications subject to complaint or investigation. Any certification filed by a carrier shall be subject to complaint or investigation or both by the board.

CERTIFICATION OF [COMPANY NAME]

STATE OF IOWA

COUNTY OF _____

I, [authorized corporate officer], [office], [company name], being of lawful age and duly sworn, depose and state:

[Company name], [SAC number], will use the support [company name] received pursuant to 47 CFR §§ 54.301, 54.305, or 54.307, or Part 36, Subpart F, of FCC regulations or successor regulations concerning high-cost universal service support, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, [company name] certifies that it will comply with applicable service quality standards and consumer protection rules, certifies that it is able to maintain a minimum of two hours of backup power to ensure functionality without an external power source, certifies that it is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas, and certifies that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within [company name's] ETC designated service area. As an eligible telecommunications carrier, [company name] agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

I further state that I am authorized by [company name] to make this statement.

[authorized officer]

Subscribed and sworn to before me this ____ day of _____, _____.

Notary Public

[Filed 10/6/06, effective 11/29/06]

[Published 10/25/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/25/06.

ARC 5496B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 3, "Forms," Chapter 4, "Contested Cases," and Chapter 6, "Settlements and Commutations," Iowa Administrative Code.

These amendments modify the existing rules regarding forms, contested case proceedings and settlements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5331B**.

Written comments were solicited until September 19, 2006. No comments were received. These amendments are identical to those published under Notice.

WORKERS' COMPENSATION DIVISION[876](cont'd)

These amendments will become effective November 29, 2006.

These amendments are intended to implement Iowa Code Supplement section 85.35 and sections 17A.3(1)"b," 17A.12, 17A.15, 85.45, 85.47, 85.48, 86.8, 86.13, 86.19, 86.24(1), 86.24(2) and 86.27.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

these amendments [3.1(5), 3.1(15), 3.1(16), 3.1(20) to 3.1(25), 4.9(1), 4.30, 6.1, 6.2(9), 6.5 to 6.8] is being omitted. These amendments are identical to those published under Notice as **ARC 5331B**, IAB 8/30/06.

[Filed 10/5/06, effective 11/29/06]

[Published 10/25/06]

[For replacement pages for IAC, see IAC Supplement 10/25/06.]

DELAY

AGENCY	RULE	DELAY
Utilities Division[199]	7.1(8) [IAB 9/13/06, ARC 5380B]	Effective date of October 18, 2006, delayed 70 days by the Administrative Rules Review Committee at its meeting held October 10, 2006. [Pursuant to §17A.4(6)]

OBJECTION

ENVIRONMENTAL PROTECTION COMMISSION

At its August 8, 2006*, meeting, the Administrative Rules Review Committee voted to object to the provisions of **ARC 5243B**, rules 567 IAC 65.5(3) and 65.103(5), on the grounds they are beyond the authority delegated to the Department of Natural Resources (Department). This filing was adopted by the Environmental Protection Commission (EPC) and published in IAB Vol. XXIX, No. 2 (7-19-2006). The Committee takes this action pursuant to the authority of Code section 17A.4, subsection 5.

This filing allows the Department to evaluate proposed animal feeding operation sites based on a number of factors that are specifically set out in the rules. After completing its evaluation, the adopted rules authorize the director of the Department to take a variety of actions to condition or deny a construction permit, to modify or disapprove a manure management plan, or to prohibit construction of a proposed confinement feeding operation that is otherwise in compliance with the provisions of Chapter 65 of the EPC rules.

It is the opinion of the Committee that Code chapters 459 and 459A establish the procedures and standards relating to the issuance of construction permits and the approval of manure management plans, and that the Department does not have authority to create additional procedures and standards by rule. The master matrix was created by Code section 459.305 in order “...to provide a *comprehensive* [emphasis added] assessment mechanism in order to produce a statistically verifiable basis for determining whether to approve or disapprove an application for the construction, including expansion, of a confinement feeding operation structure...” Section 459.305, subsection 1, paragraph “a”, further states:

“The master matrix shall be used to establish conditions for the construction of a confinement feeding operation structure and for the implementation of manure management practices, which conditions shall be included in the approval of the construction permit or the original manure management plan as applicable.”

The Committee believes this statutory language demonstrates a clear legislative intent that the matrix is the exclusive mechanism for the evaluation and approval of an application for the construction or expansion of a confinement feeding operation structure and for the implementation of manure management practices.

*Objection to 567 IAC 65.5(3) and 65.103(5) filed October 10, 2006

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of Administrative Services
Hoover State Office Building, Level A
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